

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Otter Tail Corporation,
Advance Determination of
Prudence Application

Montana-Dakota Utilities Co.,
A division of MDU Resources Group
Advance Determination of
Prudence Application

MEMORANDUM IN OPPOSITION TO
APPLICANTS' MOTION TO STRIKE
PORTIONS OF DIRECT TESTIMONY
OF DAVID SCHLISSEL
FILED ON BEHALF OF INTERENORS

Case NOS PU-06-481, PU-06-482

DISCUSSION

Relevant documents filed in this matter which present arguments presented to Administrative Law Judge Al Wahl, and an earlier decisions of ALJ Wahl include,

1. Applicants Motion in Limine brought April 10, 2007,
2. Intervenors' Memorandum in Opposition to the Motion in Limine, filed April 17, 2007.
3. Intervenors' Supplemental Brief Filed in Opposition to Applicants Motion in Limine, Filed April 23, 2007.
4. Staff Advocacy of the NDPSC Memorandum on the Motion In Limine, filed April 23, 2007 and
5. the decision of the Administrative Law Judge dated April 24, 2007.

The proposed testimony of David Schlissel was filed in complete enabling the Intervenors' to create a record of the specific proposed testimony and to give Applicants an

opportunity to move to exclude specific testimony if they so chose. A record is thus created on the concrete testimony proposed and the specific testimony Applicants propose to exclude before the trial of the matter. Applicants have chosen to use a Motion to Strike to exclude specific proposed testimony of Intervenors' expert witness.

Intervenors have not ignored the order of the Administrative Law Judge but after consultation with counsel for Applicants, Dan Kuntz, have chosen to use this vehicle to allow the Administrative Law Judge the opportunity to Rule on specific proposed testimony to make the trial of the matter more efficient and to create the appropriate record of any testimony excluded. The proposed testimony must be included in the record, and can not be kept in any off record file.

The Administrative Law Judge may at his discretion decide these questions before the trial of the matter or the testimony of David Schlissel. It may be more efficient to decide the issues raised before trial of the matter rather than before the Testimony of David Schlissel begins, or during the testimony of David Schlissel in the form of an Offer of Proof. I believe applicants and intervenors support deciding these issues before the trial

or testimony of David Schlissel.

Constitutional arguments presented in this Memorandum are included for purposes of completeness. Intervenor does not expect the ALJ to revisit an issue he has already decided. Applicant files his Motion to Strike with a complete copy of the Proposed and Filed Testimony of David Schlissel. (Applicant fails to file with his motion a copy of the c.v. of David Schlissel filed with his testimony). The testimony filed by applicant highlights the testimony applicant wishes to exclude in three colors, orange testimony to be excluded as in violation of 49-02-23, blue testimony as testimony to be stricken as speculative and green testimony to be stricken as hearsay.

ARGUMENT

1. The testimony of expert witness David Schlissel should not be excluded as highlighted by Applicant in orange under NDCC 49-02-23.

Intevenors will only summarizer the arguments earlier submitted to the ALJ in the two Memoranda in Opposition to the Motion in Limine and will incorporate by reference the lengthy argument and law submitted in those Memoranda filed April 15, 2007 and April 23, 2007.

A. The environmental externalities statute 49-02-23 does not apply to an Advance Determination of Prudence Proceedings under at issue under NDCC 49-05-16.

The detailed argument in the Memorandum in Opposition to the Applicants Motion in Limine is incorporated herein.

B. Even if NDCC 49-02023 did apply to the Advance Determination of Prudence Proceedings, the U.S. Supreme Court has declared CO2 a pollutant and subject to regulation under the federal Clean Air Act, Massachusetts v. EPA No 05-1120, published April 2, 2007.

As a pollutant subject to federal regulation CO2 can no longer be considered an environmental externality. Costs related to CO2 regulation are no longer externalities, but a pollutant, regulated under the federal Clean Air Act.

The detailed argument submitted in the earlier filed Memoranda of Law in Opposition to the Motion in Limine is incorporated herein.

C. NDCC 49-02-23, the environmental externalities statute, must be stricken on judicial review for the reasons stated below. Therefore the evidence in support of an externality theory must be preserved in the evidentiary record and considered to avoid reversal of agency decisions.

NDCC 49-02-23 denies Interveners their constitutional right to access to the court "for any injury done [Interveners] in [their] lands, goods, person or reputation" for which Interveners have a right to "remedy by due process of law, and right and justice administered without sale, denial or delay." ND Constitution, Art. 1, Sec. 9. The PSC acts in this proceeding as the trier of fact and law, and if NDCC 49-02-23 is applied, Interveners will be denied constitutional rights of access to have their case fully heard.

NDCC 49-02-23 denies Interveners the right to present evidence of harm caused by applicants' proposal and by so doing denies interveners due process of law under the state and federal constitution. ND Const. Art. 1, Sec. 9; U.S. Const., 5th and 14th Amendments.

NDCC 49-02-23 denies Interveners the opportunity to present evidence that alternative energy produced by wind will produce lower rates once the cost of mitigation of carbon dioxide are included in the rate determination process.

NDCC 49-02-23 further sponsors the continued growth of coal-fired power generation without carbon management at the expense of the development of carbon free electrical generation sources such as wind, which has created significant economic growth in neighboring states with policies more friendly to wind development.

NDCC 49-02-23 interferes inappropriately, harmfully, and beyond the authority of the State of North Dakota in the prudent planning of publicly and privately held corporations, cooperatives, and municipalities for the reasonably predictable future costs of carbon regulation, which will be passed on to shareholders and consumers who shall suffer economic damages thereby.

NDCC 49-02-23 violates the Full Faith and Credit and Commerce clauses of the U.S. Constitution by barring

certain activities by corporations registered in other states and bound by laws requiring consideration of environmental externalities, and by usurping Congressional authority to regulate commerce among the states. U.S. Const. Art. IV Sec. I; Art. I, Sec. 8.

The canon of Constitutional avoidance holds that when "a statute is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise and by the other of which such questions are avoided, our duty is to adopt the latter." United States ex rel. Attorney General v. Delaware & Hudson Co., 213 U.S. 366, 408 (1909).

NDCC 49-02-23 violates the separation of powers doctrine of the North Dakota State Constitution as follows.

- a. The legislature in enacting NDCC 49-02-23 has usurped the judicial power of the Judicial Branch of North Dakota.**

Article Section I of the North Dakota Constitution vests the judicial power of the state of North Dakota in a uniform judicial system consisting of a supreme court, a district court and other courts as may be provided by law.

The court is constitutionally authorized to promulgate rules of procedure to be followed by all courts in the state. This authority includes the promulgation of rules for the receipt and admission of evidence.

City of Fargo v. Reuther 490 N.W.2nd 481 (1992)

Accordingly, the Judicial Branch has adopted rules of evidence including rules on expert opinions and expert testimony, Rules 701 through 703, and other rules of evidence, including but not limited to Rule 403. The NDPSC applies the ND Rules of Evidence in its proceedings.

The legislature in enacting NDCC 49-02-23 has attempted to legislate a special exclusionary rule of evidence to exclude specified expert testimony before the NDPSC to the benefit of one constituent. (Lignite Coal) who appeared before legislative committees. The legislature has usurped the power and authority of the judicial branch. The intent of the legislature was to protect native coal from other western coal

competition and from alternative wind energy. (What would the evidence code of North Dakota become if each major industry obtained from the legislature a special statute which excluded types of evidence from being presented against them before a regulatory body?)

b. In enacting NDCC 49-02-23 the legislature has also violated the separation of powers in that Article 5 Section 1., specifically creates the North Dakota Public Service Commission as a constitutionally created body. As such the NDPSC has rule making authority which has been usurped by the legislature in enacting NDCC 49-02-23.

NDCC 49-02-23 violates the Dormant Commerce Clause. The dormant commerce clause prohibits states from enacting laws that "discriminate against or unduly burden interstate commerce",

Jones v Gale 470 F3d 583, 593 (8th Cir 2003), cert denied. 541 US 1037, 124 S.Ct. 2005,158 L.Ed.2nd 723(2004)

NDCC 49-02-23 denies Carbon neutral technologies Equal Protection. Such a policy bias (here, lignite) over another (wind) must survive a rational basis test.

Earlier detailed arguments filed in the two Memoranda in Opposition to the Motion in Limine are incorporated herein. Testimony of John Dwyer for Lignite Coal before the legislative establishes the intent of 49-02-23 was to protect Lignite coal from other midwestern coal competition and to protect lignite coal from competition from wind energy which does not and will not have carbon costs. See Testimony of John Dwyer before the legislature supporting NDCC 49-02-23 which is an exhibit in the Intervenor's Motion to Oppose Applicants Motion in Limine.

Mr. Dwyer admits two exhibits to the legislative committee to demonstrate that Wind Energy is less expensive than coal if carbon dioxide costs are internalized.

2. The expert witness testimony of David Schlissel cannot be excluded, as highlighted by Applicant in blue, as speculative.

The testimony of David Schlissel is opinion testimony of an expert witness based on his expertise and investigation and can not be excluded as speculative or treated as fact testimony of a mere fact witness. The question is, if Mr. Schlissel is qualified to render those opinions. Mr. Schlissel has already testified as an expert witness on these issues in the trial of Applications filed to develop Big Stone II in proceedings before the Public Service Commissions in South Dakota and Minnesota. Mr. Schlissel has been accepted as an expert witness in both those proceeding and has rendered this testimony and these opinions. That testimony is admissible and may be accepted or rejected by the PSC commissioners in deciding the issues, but it is admissible.

The "test of admission of expert testimony is whether or not such testimony will assist the trier of fact to understand the evidence or to determine a fact in issue and

whether the expert is qualified as an expert. South v National RR Passenger Corp., 290 N.W.2d 819 (N.D. 1980) It was an abuse of discretion, and error for a trial court to find an expert's testimony was speculative. Langness v. Fencil Urethane System., 2003 ND 132, 667 N.W. 2d 596 (2003)

It is well established that David Schlissel is an expert witness well qualified to testify on such matters. The 19 page c.v. of David Schlissel, filed with exhibits on May 31, 2007, is attached. It clearly establishes Mr. Schlissel's qualifications to render opinions as an expert witness.

1. None of the Big Stone II co-owners including OTP and MDU challenged or contested Mr. Schlissel's expertise, or his testimony as an expert witness in the proceedings in either South Dakota or Minnesota trial of the Big Stone II matters.

2. Mr. Schlissel has testified as an expert witness in South Dakota, Minnesota, Florida, and North Carolina. Mr. Schlissel recently was invited by the New Mexico Public Regulation Commission to participate in a workshop on CO2 regulation and the appropriate CO2 costs to be used in utility planning.

3. Mr. Schlissel has presented expert testimony on electric resource planning issues before state regulatory Commissions in New Mexico, Arizona, Minnesota, South Dakota, Arkansas, Wisconsin, Maine, New York, Indiana, Texas and North Carolina. Mr. Schlissel's clients on these matters included the New Mexico Public Relations Commission, the General Staff of the Arkansas Public Service Commission and the staff of the Arizona Corporation Commission. A more complete c.v. of Mr. Schlissel's formal background and experience as an expert on these matters is attached to this motion.

This facet of Applicants motion, to exclude expert opinion testimony, must fail. Mr. Schlisel clearly is qualified to testify as an expert on all of the matters presented in his direct testimony.

In fact the many experts disclosed by MDU and OTP to testify base many of their opinions on speculation in the form of economic and price forecasting. Applicants' experts speculate and forecast on the demand for energy in the future, on the price of building material and labor costs in the future, on the price of natural gas in the future, on the price of coal in the future and on the future cost of a combined power plant using a natural gas and wind energy platform, whether the wind production tax

credit will be repealed. All these forecasts on future costs and future prices are speculative but may be allowed as an expert witness opinion if the witness is so qualified.

Moreover much of the testimony that OTP and MDU seek to strike as speculative actually isn't.

3. The expert witness testimony of David Schlissel, as highlighted by applicants in blue, cannot be excluded as hearsay.

This is opinion testimony based on his expertise and professional judgment. That opinion testimony may be accepted or rejected by the PSC Commissioners in their decision, but it is admissible.

Expert witnesses can testify to opinions based on hearsay or other inadmissible evidence if experts in the field rely on such evidence in forming their opinions. *Anderson v. A.P.I. Co.* 1997 ND6, 559 N.W.2d 204 (1997)

Rule 802 (8) of the N.D. Rules Of evidence provides that Public Records and Reports are an exception to the hearsay rule.

Rule 703 of the Federal Rules of Evidence was adopted as Rule 703 of the North Dakota Rules of Evidence. Thus the federal decisions on the rules are persuasive in state

court. The basis of an expert opinion need not be need not be proved by admissible evidence, *Minot Sand and Gravel v. Hjelie*, 231 NW2d 716 (ND 1975).

Let's analyze the policy reasons for this. If MDU and OTP bar this opinion testimony as hearsay any testimony about what other utilities do in terms of planning for CO2 costs are excluded as a basis for an expert opinion. The consequence is that the NDPSC will only be able to learn about what other companies and states are doing on important issues if the parties with significant resources, (here OTP and MDU) bring in witnesses from other state commissions or utilities to testify directly as to what they do. Parties with fewer resources, (here, Dakota Resource Council), will be unable to present such evidence because they have to rely on publicly filed statements, and prefiled testimony in other cases in other states, etc. In other words, parties with fewer resources will be greatly disadvantaged and they PSC will not hear this information because in this matter OPT and MDU will not present it.

The Federal Advisory Committee Notes at the time of the adoption of Federal Rule 703, (Basis of Expert Witness Opinions) state the following.

Facts or data upon which experts opinions are based may under the rule be derived from three possible sources.

First, is the first hand observation of the witness, Second, with the typical hypothetical question and the third source contemplated by the rule, consists of presentation of data to the expert outside of the court and other than by his own perception.

1. Experts in state regulatory proceedings can rely on evidence that otherwise would not be admissible if given in an expert witness opinion.
2. Much if not all of the evidence that MDU and OTP seek to exclude as hearsay is not. For Example, the materials that MDU and OTP seek to strike at page 9 line 16 to page 10 line 25, of Mr. Schlissel's testimony present the results of an analysis of the factors which have led to increased construction costs for new coal plants like Big Stone II. Clearly that is the sort of information on which experts can rely. Indeed the result of this analysis was presented in sworn testimony before the North Carolina Utilities Commission. That enhances the credibility of the materials cited by Mr. Schlissel.
3. At page 17, lines 1-9 of Mr. Schlissel's testimony is not hearsay- it relates what another utility did in its analysis of the economics of a proposed coal facility

and Mr. Schlissel's conclusion regarding those analyses- it is not based on what the utility or what any of its witnesses said.

4. Page 58, lines 8-9 of Mr .Schlissel's testimony is not speculative. It is Mr. Schlissel's conclusion regarding the reasons why OTP did not rerun its IRP-Manager model to reflect a correct commercial operation date for the big Stone II facility.
5. Page 59, lines 1-3, of Mr Schlissel's testimony is not speculative. It is Mr. Schlissel's conclusion based on the OTP data response cited in footnote 71 on the same page.
6. Page 72, lines 5-11 of Mr. Schlissel's testimony - the statements that OTP and MDU seek to exclude were presented in testimony that all of the BIG Stone II co-owners including OTP and MDU, sponsored in South Dakota.
7. The language on page 76, lines 9-21, that OTP and MDU seek to exclude is based on either a formal study by the State of Minnesota Department of Commerce or a statement by one of the Big Stone II co-owners.

Conclusion

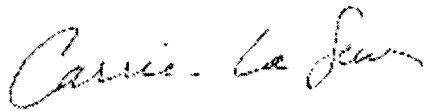
For the above reasons, the Intervenors request that the Hearing Examiner deny the Applicant's Motion to Strike the specified testimony of David Schlissel. Intervenors request

they be allowed to introduce all relevant evidence in the Application for Advance Determination of Prudence proceeding before the Commission.

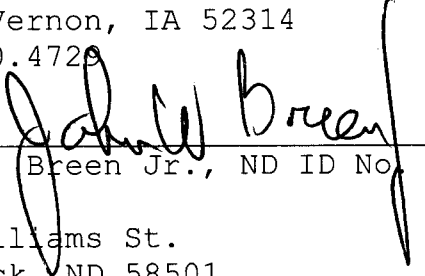
Dated: June 18, 2007

Respectfully submitted,

Intervenors Dakota Resource Council and Mark Trechock

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SUMMARY

I have worked for thirty years as a consultant and attorney on complex management, engineering, and economic issues, primarily in the field of energy. This work has involved conducting technical investigations, preparing economic analyses, presenting expert testimony, providing support during all phases of regulatory proceedings and litigation, and advising clients during settlement negotiations. I received undergraduate and advanced engineering degrees from the Massachusetts Institute of Technology and Stanford University, respectively, and a law degree from Stanford Law School

PROFESSIONAL EXPERIENCE

Electric System Reliability - Evaluated whether new transmission lines and generation facilities were needed to ensure adequate levels of system reliability. Investigated the causes of distribution system outages and inadequate service reliability. Examined the reasonableness of utility system reliability expenditures.

Transmission Line Siting – Examined the need for proposed transmission lines. Analyzed whether proposed transmission lines could be installed underground. Worked with clients to develop alternate routings for proposed lines that would have reduced impacts on the environment and communities.

Power Plant Operations and Economics - Investigated the causes of more than one hundred power plant and system outages, equipment failures, and component degradation, determined whether these problems could have been anticipated and avoided, and assessed liability for repair and replacement costs. Examined power plant operating, maintenance, and capital costs. Analyzed power plant operating data from the NERC Generating Availability Data System (GADS). Evaluated utility plans for and management of the replacement of major power plant components. Assessed the adequacy of power plant quality assurance and maintenance programs. Examined the selection and supervision of contractors and subcontractors.

Power Plant Repowering - Evaluated the environmental, economic and reliability impacts of rebuilding older, inefficient generating facilities with new combined cycle technology.

Power Plant Air Emissions – Investigated whether proposed generating facilities would provide environmental benefits in terms of reduced emissions of NO_x, SO₂ and CO₂. Examined whether new state emission standards would lead to the retirement of existing power plants or otherwise have an adverse impact on electric system reliability.

Power Plant Water Use – Examined power plant repowering as a strategy for reducing water consumption at existing electric generating facilities. Analyzed the impact of converting power plants from once-through to closed-loop systems with cooling towers on plant revenues and electric system reliability. Evaluated the potential impact of the EPA’s Proposed Clean Water Act Section 316(b) Rule for Cooling Water Intake Structures at existing power plants.

Nuclear Power - Examined the impact of the nuclear power plant life extensions and power uprates on decommissioning costs and collections policies. Evaluated utility decommissioning cost estimates and cost collection plans. Examined the reasonableness of utility decisions to sell nuclear power assets and evaluated the value received as a result of the auctioning of those plants. Investigated the significance of the increasing ownership of nuclear power plants by multiple tiered holding companies with limited liability company subsidiaries. Investigated the potential safety consequences of nuclear power plant structure, system, and component failures.

Electric Industry Regulation and Markets - Investigated whether new generating facilities that were built for a deregulated subsidiary should be included in the rate base of a regulated utility. Evaluated the reasonableness of proposed utility power purchase agreements with deregulated affiliates. Investigated the prudence of utility power purchases in deregulated markets. Examined whether generating facilities experienced more outages following the transition to a deregulated wholesale market in New England. Evaluated the reasonableness of nuclear and fossil plant sales, auctions, and power purchase agreements. Analyzed the impact of proposed utility mergers on market power. Assessed the reasonableness of contract provisions and terms in proposed power supply agreements.

Economic Analysis - Analyzed the costs and benefits of energy supply options. Examined the economic and system reliability consequences of the early retirement of major electric generating facilities. Evaluated whether new electric generating facilities are used and useful. Quantified replacement power costs and the increased capital and operating costs due to identified instances of mismanagement.

Expert Testimony - Presented the results of management, technical and economic analyses as testimony in more than ninety proceedings before regulatory boards and commissions in twenty three states, before two federal regulatory agencies, and in state and federal court proceedings.

Litigation and Regulatory Support - Participated in all aspects of the development and preparation of case presentations on complex management, technical, and economic issues. Assisted in the preparation and conduct of pre-trial discovery and depositions. Helped identify and prepare expert witnesses. Aided the preparation of pre-hearing petitions and motions and post-hearing briefs and appeals. Assisted counsel in preparing for hearings and oral arguments. Advised counsel during settlement negotiations.

TESTIMONY, AFFIDAVITS, DEPOSITIONS AND COMMENTS

Florida Public Service Commission (Docket No. 070098-ED) – March 2007

Florida Light & Power Company's need for and the economics of the proposed Glades Power Park.

Michigan Public Service Commission (Case No. 14992-U) – December 2006

The reasonableness of the proposed sale of the Palisades Nuclear Power Plant.

Minnesota Public Utilities Commission (Docket No. CN-05-619) – November 2006

Whether the co-owners of the proposed Big Stone II coal-fired generating plant have appropriately reflected the potential for the regulation of greenhouse gases in their analyses of the facility; and whether the proposed project is a lower cost alternative than renewable options, conservation and load management.

North Carolina Utilities Commission (Docket No. E-7, Sub 790) – September 2006 and January 2007

Duke's need for two new 800 MW coal-fired generating units and the relative economics of adding these facilities as compared to other available options including energy efficiency and renewable technologies.

New Mexico Public Regulatory Commission (Case No. 05-00275-UT) – September 2006

Report to the New Mexico Commission on whether the settlement value of the adjustment for moving the 141 MW Afton combustion turbine merchant plant into rate base is reasonable.

Arizona Corporation Commission (Docket No. E-01345A-0816) – August and September 2006

Whether APS's acquisition of the Sundance Generating Station was prudent and the reasonableness of the amounts that APS requested for fossil plant O&M.

U.S. District Court for the District of Montana (Billings Generation, Inc. vs. Electrical Controls, Inc, et al., CV-04-123-BLG-RFC) – August 2006

Quantification of plaintiff's business losses during an extended power plant outage and plaintiff's business earnings due to the shortening and delay of future plant outages.
[Confidential Expert Report]

Deposition in South Dakota Public Utility Commission Case No. EL05-022 – June 14, 2006

South Dakota Public Utility Commission (Case No. EL05-022) – May and June 2006

Whether the co-owners of the proposed Big Stone II coal-fired generating plant have appropriately reflected the potential for the regulation of greenhouse gases in their analyses of the alternatives to the proposed facility; the need and timing for new supply options in the co-owners' service territories; and whether there are alternatives to the proposed facility that are technically feasible and economically cost-effective.

Georgia Public Service Commission (Docket No. 22449-U) – May 2006

Georgia Power Company's request for an accounting order to record early site permitting and construction operating license costs for new nuclear power plants.

California Public Utilities Commission (Dockets Nos. A.05-11-008 and A.05-11-009) – April 2006

The estimated costs for decommissioning the Diablo Canyon, SONGS 2&3 and Palo Verde nuclear power plants and the annual contributions that are needed from ratepayers to assure that adequate funds will be available to decommission these plants at the projected ends of their service lives.

New Jersey Board of Public Utilities (Docket No. EM05020106) – November and December 2005 and March 2006

Joint Testimony with Bob Fagan and Bruce Biewald on the market power implications of the proposed merger between Exelon Corp. and Public Service Enterprise Group.

Virginia State Corporation Commission (Case No. PUE-2005-00018)– November 2005

The siting of a proposed 230 kV transmission line.

Iowa Utility Board (Docket No. SPU-05-15) – September and October 2005

The reasonableness of IPL's proposed sale of the Duane Arnold Energy Center nuclear plant.

New York State Department of Environmental Conservation (DEC #3-3346-00011/00002) – October 2005

The likely profits that Dynegy will earn from the sale of the energy and capacity of the Danskammer Generating Facility if the plant is converted from once-through to closed-cycle cooling with wet towers or to dry cooling.

Arkansas Public Service Commission (Docket 05-042-U) – July and August 2005

Arkansas Electric Cooperative Corporation's proposed purchase of the Wrightsville Power Facility.

Maine Public Utilities Commission (Docket No. 2005-17) – July 2005

Joint testimony with Peter Lanzalotta and Bob Fagan evaluating Eastern Maine Electric Cooperative's request for a CPCN to purchase 15 MW of transmission capacity from New Brunswick Power.

Federal Energy Regulatory Commission (Docket No. EC05-43-0000) – April and May 2005

Joint Affidavit and Supplemental Affidavit with Bruce Biewald on the market power aspects of the proposed merger of Exelon Corporation and Public Service Enterprise Group, Inc.

Maine Public Utilities Commission (Docket No. 2004-538 Phase II) – April 2005

Joint testimony with Peter Lanzalotta and Bob Fagan evaluating Maine Public Service Company's request for a CPCN to purchase 35 MW of transmission capacity from New Brunswick Power.

Maine Public Utilities Commission (Docket No. 2004-771) – March 2005

Analysis of Bangor Hydro-Electric's Petition for a Certificate of Public Convenience and Necessity to construct a 345 kV transmission line

**United States District Court for the Southern District of Ohio, Eastern Division
(Consolidated Civil Actions Nos. C2-99-1182 and C2-99-1250)**

Whether the public release of company documents more than three years old would cause competitive harm to the American Electric Power Company. [Confidential Expert Report]

New Jersey Board of Public Utilities (Docket No. EO03121014) – February 2005

Whether the Board of Public Utilities can halt further collections from Jersey Central Power & Light Company's ratepayers because there already are adequate funds in the company's decommissioning trusts for the Three Mile Island Unit No. 2 Nuclear Plant to allow for the decommissioning of that unit without endangered the public health and safety.

Maine Public Utilities Commission (Docket No. 2004-538) – January and March 2005

Analysis of Maine Public Service Company's request to construct a 138 kV transmission line from Limestone, Maine to the Canadian Border.

**California Public Utilities Commission (Application No. AO4-02-026) – December 2004
and January 2005**

Southern California Edison's proposed replacement of the steam generators at the San Onofre Unit 2 and Unit 3 nuclear power plants and whether the utility was imprudent for failing to initiate litigation against Combustion Engineering due to defects in the design of and materials used in those steam generators.

**United States District Court for the Southern District of Indiana, Indianapolis Division
(Civil Action No. IP99-1693) – December 2004**

Whether the public release of company documents more than three years old would cause competitive harm to the Cinergy Corporation. [Confidential Expert Report]

California Public Utilities Commission (Application No. AO4-01-009) – August 2004

Pacific Gas & Electric's proposed replacement of the steam generators at the Diablo Canyon nuclear power plant and whether the utility was imprudent for failing to initiate litigation against Westinghouse due to defects in the design of and materials used in those steam generators.

**Public Service Commission of Wisconsin (Docket No. 6690-CE-187) – June, July and
August 2004**

Whether Wisconsin Public Service Corporation's request for approval to build a proposed 515 MW coal-burning generating facility should be granted.

Public Service Commission of Wisconsin (Docket No. 05-EI-136) – May and June 2004

Whether the proposed sale of the Kewaunee Nuclear Power Plant to a subsidiary of an out-of-state holding company is in the public interest.

Connecticut Siting Council (Docket No. 272) – May 2004

Whether there are technically viable alternatives to the proposed 345-kV transmission line between Middletown and Norwalk Connecticut and the length of the line that can be installed underground.

Arizona Corporation Commission (Docket No. E-01345A-03-0437 – February 2004

Whether Arizona Public Service Company should be allowed to acquire and include in rate base five generating units that were built by a deregulated affiliate.

State of Rhode Island Energy Facilities Siting Board (Docket No. SB-2003-1) – February 2004

Whether the cost of undergrounding a relocated 115kV transmission line would be eligible for regional cost socialization.

State of Maine Department of Environmental Protection (Docket No. A-82-75-0-X) – December 2003

The storage of irradiated nuclear fuel in an Independent Spent Fuel Storage Installation (ISFSI) and whether such an installation represents an air pollution control facility.

Rhode Island Public Utility Commission (Docket No. 3564) – December 2003 and January 2004

Whether Narragansett Electric Company should be required to install a relocated 115kV transmission line underground.

New York State Board on Electric Generation Siting and the Environment (Case No. 01-F-1276) – September, October and November 2003

The environmental, economic and system reliability benefits that can reasonably be expected from the proposed 1,100 MW TransGas Energy generating facility in Brooklyn, New York.

Wisconsin Public Service Commission (Case 6690-UR-115209) - September and October 2003

The reasonableness of Wisconsin Public Service Corporation's decommissioning cost collections for the Kewaunee Nuclear Plant.

Oklahoma Corporation Commission (Cause No. 2003-121) – July 2003

Whether Empire District Electric Company properly reduced its capital costs to reflect the write-off of a portion of the cost of building a new electric generating facility.

Arkansas Public Service Commission (Docket 02-248-U) – May 2003

Entergy's proposed replacement of the steam generators and the reactor vessel head at the ANO Unit 1 Steam Generating Station.

Appellate Tax Board, State of Massachusetts (Docket No C258405-406) – May 2003

The physical nature of electricity and whether electricity is a tangible product or a service.

Maine Public Utilities Commission (Docket 2002-665-U) – April 2003

Analysis of Central Maine Power Company's proposed transmission line for Southern York County and recommendation of alternatives.

Massachusetts Legislature, Joint Committees on Government Regulations and Energy – March 2003

Whether PG&E can decide to permanently retire one or more of the generating units at its Salem Harbor Station if it is not granted an extension beyond October 2004 to reduce the emissions from the Station's three coal-fired units and one oil-fired unit.

New Jersey Board of Public Utilities (Docket No. ER02080614) – January 2003

The prudence of Rockland Electric Company's power purchases during the period August 1, 1999 through July 31, 2002.

New York State Board on Electric Generation Siting and the Environment (Case No. 00-F-1356) – September and October 2002 and January 2003

The need for and the environmental benefits from the proposed 300 MW Kings Park Energy generating facility.

Arizona Corporation Commission (Docket No. E-01345A-01-0822) – March 2002

The reasonableness of Arizona Public Service Company's proposed long-term power purchase agreement with an affiliated company.

New York State Board on Electric Generation Siting and the Environment (Case No. 99-F-1627) – March 2002

Repowering NYPA's existing Poletti Station in Queens, New York.

Connecticut Siting Council (Docket No. 217) – March 2002, November 2002, and January 2003

Whether the proposed 345-kV transmission line between Plumtree and Norwalk substations in Southwestern Connecticut is needed and will produce public benefits.

Vermont Public Service Board (Case No. 6545) – January 2002

Whether the proposed sale of the Vermont Yankee Nuclear Plant to Entergy is in the public interest of the State of Vermont and Vermont ratepayers.

Connecticut Department of Public Utility Control (Docket 99-09-12RE02) – December 2001

The reasonableness of adjustments that Connecticut Light and Power Company seeks to make to the proceeds that it received from the sale of Millstone Nuclear Power Station.

Connecticut Siting Council (Docket No. 208) – October 2001

Whether the proposed cross-sound cable between Connecticut and Long Island is needed and will produce public benefits for Connecticut consumers.

New Jersey Board of Public Utilities (Docket No. EM01050308) - September 2001

The market power implications of the proposed merger between Conectiv and Pepco.

Illinois Commerce Commission Docket No. 01-0423 – August, September, and October 2001

Commonwealth Edison Company's management of its distribution and transmission systems.

New York State Board on Electric Generation Siting and the Environment (Case No. 99-F-1627) - August and September 2001

The environmental benefits from the proposed 500 MW NYPA Astoria generating facility.

New York State Board on Electric Generation Siting and the Environment (Case No. 99-F-1191) - June 2001

The environmental benefits from the proposed 1,000 MW Astoria Energy generating facility.

New Jersey Board of Public Utilities (Docket No. EM00110870) - May 2001

The market power implications of the proposed merger between FirstEnergy and GPU Energy.

Connecticut Department of Public Utility Control (Docket 99-09-12RE01) - November 2000

The proposed sale of Millstone Nuclear Station to Dominion Nuclear, Inc.

Illinois Commerce Commission (Docket 00-0361) - August 2000

The impact of nuclear power plant life extensions on Commonwealth Edison Company's decommissioning costs and collections from ratepayers.

Vermont Public Service Board (Docket 6300) - April 2000

Whether the proposed sale of the Vermont Yankee nuclear plant to AmerGen Vermont is in the public interest.

Massachusetts Department of Telecommunications and Energy (Docket 99-107, Phase II) - April and June 2000

The causes of the May 18, 1999, main transformer fire at the Pilgrim generating station.

Connecticut Department of Public Utility Control (Docket 00-01-11) - March and April 2000

The impact of the proposed merger between Northeast Utilities and Con Edison, Inc. on the reliability of the electric service being provided to Connecticut ratepayers.

Connecticut Department of Public Utility Control (Docket 99-09-12) - January 2000

The reasonableness of Northeast Utilities plan for auctioning the Millstone Nuclear Station.

Connecticut Department of Public Utility Control (Docket 99-08-01) - November 1999

Generation, Transmission, and Distribution system reliability.

Illinois Commerce Commission (Docket 99-0115) - September 1999

Commonwealth Edison Company's decommissioning cost estimate for the Zion Nuclear Station.

Connecticut Department of Public Utility Control (Docket 99-03-36) - July 1999

Standard offer rates for Connecticut Light & Power Company.

Connecticut Department of Public Utility Control (Docket 99-03-35) - July 1999

Standard offer rates for United Illuminating Company.

Connecticut Department of Public Utility Control (Docket 99-02-05) - April 1999

Connecticut Light & Power Company stranded costs.

Connecticut Department of Public Utility Control (Docket 99-03-04) - April 1999

United Illuminating Company stranded costs.

Maryland Public Service Commission (Docket 8795) - December 1998

Future operating performance of Delmarva Power Company's nuclear units.

Maryland Public Service Commission (Dockets 8794/8804) - December 1998

Baltimore Gas and Electric Company's proposed replacement of the steam generators at the Calvert Cliffs Nuclear Power Plant. Future performance of nuclear units.

Indiana Utility Regulatory Commission (Docket 38702-FAC-40-S1) - November 1998

Whether the ongoing outages of the two units at the D.C. Cook Nuclear Plant were caused or extended by mismanagement.

Arkansas Public Service Commission (Docket 98-065-U) - October 1998

Energys's proposed replacement of the steam generators at the ANO Unit 2 Steam Generating Station.

Massachusetts Department of Telecommunications and Energy (Docket 97-120) - October 1998

Western Massachusetts Electric Company's Transition Charge. Whether the extended 1996-1998 outages of the three units at the Millstone Nuclear Station were caused or extended by mismanagement.

Connecticut Department of Public Utility Control (Docket 98-01-02) - September 1998

Nuclear plant operations, operating and capital costs, and system reliability improvement costs.

Illinois Commerce Commission (Docket 97-0015) - May 1998

Whether any of the outages of Commonwealth Edison Company's twelve nuclear units during 1996 were caused or extended by mismanagement. Whether equipment problems, personnel performance weaknesses, and program deficiencies could have been avoided or addressed prior to plant outages. Outage-related fuel and replacement power costs.

Public Service Commission of West Virginia (Case 97-1329-E-CN) - March 1998

The need for a proposed 765 kV transmission line from Wyoming, West Virginia, to Cloverdate, Virginia.

Illinois Commerce Commission (Docket 97-0018) - March 1998

Whether any of the outages of the Clinton Power Station during 1996 were caused or extended by mismanagement.

Connecticut Department of Public Utility Control (Docket 97-05-12) - October 1997

The increased costs resulting from the ongoing outages of the three units at the Millstone Nuclear Station.

New Jersey Board of Public Utilities (Docket ER96030257) - August 1996

Replacement power costs during plant outages.

Illinois Commerce Commission (Docket 95-0119) - February 1996

Whether any of the outages of Commonwealth Edison Company's twelve nuclear units during 1994 were caused or extended by mismanagement. Whether equipment problems, personnel performance weaknesses, and program deficiencies could have been avoided or addressed prior to plant outages. Outage-related fuel and replacement power costs.

Public Utility Commission of Texas (Docket 13170) - December 1994

Whether any of the outages of the River Bend Nuclear Station during the period October 1, 1991, through December 31, 1993, were caused or extended by mismanagement.

Public Utility Commission of Texas (Docket 12820) - October 1994

Operations and maintenance expenses during outages of the South Texas Nuclear Generating Station.

Wisconsin Public Service Commission (Cases 6630-CE-197 and 6630-CE-209) - September and October 1994

The reasonableness of the projected cost and schedule for the replacement of the steam generators at the Point Beach Nuclear Power Plant. The potential impact of plant aging on future operating costs and performance.

Public Utility Commission of Texas (Docket 12700) - June 1994

Whether El Paso Electric Company's share of Palo Verde Unit 3 was needed to ensure adequate levels of system reliability. Whether the Company's investment in Unit 3 could be expected to generate cost savings for ratepayers within a reasonable number of years.

Arizona Corporation Commission (Docket U-1551-93-272) - May and June 1994

Southwest Gas Corporation's plastic and steel pipe repair and replacement programs.

Connecticut Department of Public Utility Control (Docket 92-04-15) - March 1994

Northeast Utilities management of the 1992/1993 replacement of the steam generators at Millstone Unit 2.

Connecticut Department of Public Utility Control (Docket 92-10-03) - August 1993

Whether the 1991 outage of Millstone Unit 3 as a result of the corrosion of safety-related plant piping systems was due to mismanagement.

Public Utility Commission of Texas (Docket 11735) - April and July 1993

Whether any of the outages of the Comanche Peak Unit 1 Nuclear Station during the period August 13, 1990, through June 30, 1992, were caused or extended by mismanagement.

Connecticut Department of Public Utility Control (Docket 91-12-07) - January 1993 and August 1995

Whether the November 6, 1991, pipe rupture at Millstone Unit 2 and the related outages of the Connecticut Yankee and Millstone units were caused or extended by mismanagement. The impact of environmental requirements on power plant design and operation.

Connecticut Department of Public Utility Control (Docket 92-06-05) - September 1992

United Illuminating Company off-system capacity sales. [Confidential Testimony]

Public Utility Commission of Texas (Docket 10894) - August 1992

Whether any of the outages of the River Bend Nuclear Station during the period October 1, 1988, through September 30, 1991, were caused or extended by mismanagement.

Connecticut Department of Public Utility Control (Docket 92-01-05) - August 1992

Whether the July 1991 outage of Millstone Unit 3 due to the fouling of important plant systems by blue mussels was the result of mismanagement.

California Public Utilities Commission (Docket 90-12-018) - November 1991, April 1992, June and July 1993

Whether any of the outages of the three units at the Palo Verde Nuclear Generating Station during 1989 and 1990 were caused or extended by mismanagement. Whether equipment problems, personnel performance weaknesses and program deficiencies could have been avoided or addressed prior to outages. Whether specific plant operating cost and capital expenditures were necessary and prudent.

Public Utility Commission of Texas (Docket 9945) - June 1991

Whether El Paso Electric Company's share of Palo Verde Unit 3 was needed to ensure adequate levels of system reliability. Whether the Company's investment in the unit could be expected to generate cost savings for ratepayers within a reasonable number of years. El Paso Electric Company's management of the planning and licensing of the Arizona Interconnection Project transmission line.

Arizona Corporation Commission (Docket U-1345-90-007) - December 1990 and April 1991

Arizona Public Service Company's management of the planning, construction and operation of the Palo Verde Nuclear Generating Station. The costs resulting from identified instances of mismanagement.

New Jersey Board of Public Utilities (Docket ER89110912J) - July and October 1990

The economic costs and benefits of the early retirement of the Oyster Creek Nuclear Plant. The potential impact of the unit's early retirement on system reliability. The cost and schedule for siting and constructing a replacement natural gas-fired generating plant.

Public Utility Commission of Texas (Docket 9300) - June and July 1990

Texas Utilities management of the design and construction of the Comanche Peak Nuclear Plant. Whether the Company was prudent in repurchasing minority owners' shares of Comanche Peak without examining the costs and benefits of the repurchase for its ratepayers.

Federal Energy Regulatory Commission (Docket EL-88-5-000) - November 1989

Boston Edison's corporate management of the Pilgrim Nuclear Station.

Connecticut Department of Public Utility Control (Docket 89-08-11) - November 1989

United Illuminating Company's off-system capacity sales.

Kansas State Corporation Commission (Case 164,211-U) - April 1989

Whether any of the 127 days of outages of the Wolf Creek generating plant during 1987 and 1988 were the result of mismanagement.

Public Utility Commission of Texas (Docket 8425) - March 1989

Whether Houston Lighting & Power Company's new Limestone Unit 2 generating facility was needed to provide adequate levels of system reliability. Whether the Company's investment in Limestone Unit 2 would provide a net economic benefit for ratepayers.

Illinois Commerce Commission (Dockets 83-0537 and 84-0555) - July 1985 and January 1989

Commonwealth Edison Company's management of quality assurance and quality control activities and the actions of project contractors during construction of the Byron Nuclear Station.

New Mexico Public Service Commission (Case 2146, Part II) - October 1988

The rate consequences of Public Service Company of New Mexico's ownership of Palo Verde Units 1 and 2.

United States District Court for the Eastern District of New York (Case 87-646-JBW) - October 1988

Whether the Long Island Lighting Company withheld important information from the New York State Public Service Commission, the New York State Board on Electric Generating Siting and the Environment, and the U.S. Nuclear Regulatory Commission.

Public Utility Commission of Texas (Docket 6668) - August 1988 and June 1989

Houston Light & Power Company's management of the design and construction of the South Texas Nuclear Project. The impact of safety-related and environmental requirements on plant construction costs and schedule.

Federal Energy Regulatory Commission (Docket ER88-202-000) - June 1988

Whether the turbine generator vibration problems that extended the 1987 outage of the Maine Yankee nuclear plant were caused by mismanagement.

Illinois Commerce Commission (Docket 87-0695) - April 1988

Illinois Power Company's planning for the Clinton Nuclear Station.

North Carolina Utilities Commission (Docket E-2, Sub 537) - February 1988

Carolina Power & Light Company's management of the design and construction of the Harris Nuclear Project. The Company's management of quality assurance and quality control activities. The impact of safety-related and environmental requirements on construction costs and schedule. The cost and schedule consequences of identified instances of mismanagement.

Ohio Public Utilities Commission (Case 87-689-EL-AIR) - October 1987

Whether any of Ohio Edison's share of the Perry Unit 2 generating facility was needed to ensure adequate levels of system reliability. Whether the Company's investment in Perry Unit 1 would produce a net economic benefit for ratepayers.

North Carolina Utilities Commission (Docket E-2, Sub 526) - May 1987

Fuel factor calculations.

New York State Public Service Commission (Case 29484) - May 1987

The planned startup and power ascension testing program for the Nine Mile Point Unit 2 generating facility.

Illinois Commerce Commission (Dockets 86-0043 and 86-0096) - April 1987

The reasonableness of certain terms in a proposed Power Supply Agreement.

Illinois Commerce Commission (Docket 86-0405) - March 1987

The in-service criteria to be used to determine when a new generating facility was capable of providing safe, adequate, reliable and efficient service.

Indiana Public Service Commission (Case 38045) - November 1986

Northern Indiana Public Service Company's planning for the Schaefer Unit 18 generating facility. Whether the capacity from Unit 18 was needed to ensure adequate system reliability. The rate consequences of excess capacity on the Company's system.

Superior Court in Rockingham County, New Hampshire (Case 86E328) - July 1986

The radiation effects of low power testing on the structures, equipment and components in a new nuclear power plant.

New York State Public Service Commission (Case 28124) - April 1986 and May 1987

The terms and provisions in a utility's contract with an equipment supplier. The prudence of the utility's planning for a new generating facility. Expenditures on a canceled generating facility.

Arizona Corporation Commission (Docket U-1345-85) - February 1986

The construction schedule for Palo Verde Unit No. 1. Regulatory and technical factors that would likely affect future plant operating costs.

New York State Public Service Commission (Case 29124) – December 1985 and January 1986

Niagara Mohawk Power Corporation's management of construction of the Nine Mile Point Unit No. 2 nuclear power plant.

New York State Public Service Commission (Case 28252) - October 1985

A performance standard for the Shoreham nuclear power plant.

New York State Public Service Commission (Case 29069) - August 1985

A performance standard for the Nine Mile Point Unit No. 2 nuclear power plant.

Missouri Public Service Commission (Cases ER-85-128 and EO-85-185) - July 1985

The impact of safety-related regulatory requirements and plant aging on power plant operating costs and performance. Regulatory factors and plant-specific design features that will likely affect the future operating costs and performance of the Wolf Creek Nuclear Plant.

Massachusetts Department of Public Utilities (Case 84-152) - January 1985

The impact of safety-related regulatory requirements and plant aging on power plant operating costs and performance. Regulatory factors and plant-specific design features that will likely affect the future operating costs and performance of the Seabrook Nuclear Plant.

Maine Public Utilities Commission (Docket 84-113) - September 1984

The impact of safety-related regulatory requirements and plant aging on power plant operating costs and performance. Regulatory factors and plant-specific design features that will likely affect the future operating costs and performance of the Seabrook Nuclear Plant.

South Carolina Public Service Commission (Case 84-122-E) - August 1984

The repair and replacement strategy adopted by Carolina Power & Light Company in response to pipe cracking at the Brunswick Nuclear Station. Quantification of replacement power costs attributable to identified instances of mismanagement.

Vermont Public Service Board (Case 4865) - May 1984

The repair and replacement strategy adopted by management in response to pipe cracking at the Vermont Yankee nuclear plant.

New York State Public Service Commission (Case 28347) -January 1984

The information that was available to Niagara Mohawk Power Corporation prior to 1982 concerning the potential for cracking in safety-related piping systems at the Nine Mile Point Unit No. 1 nuclear plant.

New York State Public Service Commission (Case 28166) - February 1983 and February 1984

Whether the January 25, 1982, steam generator tube rupture at the Ginna Nuclear Plant was caused by mismanagement.

U.S. Nuclear Regulatory Commission (Case 50-247SP) - May 1983

The economic costs and benefits of the early retirement of the Indian Point nuclear plants.

REPORTS, ARTICLES, AND PRESENTATIONS

The Risks of Building New Nuclear Power Plants, U.S. Senate and House of Representative Briefings, April 20, 2007.

Carbon Dioxide Emissions Costs and Electricity Resource Planning, New Mexico Public Regulation Commission, Case 06-00448-UT, March 28, 2007, with Anna Sommer.

The Risks of Building New Nuclear Power Plants, Presentation to the New York Society of Securities Analysts, June 8, 2006.

Conservation and Renewable Energy Should be the Cornerstone for Meeting Future Natural Gas Needs. Presentation to the Global LNG Summit, June 1, 2004. Presentation given by Cliff Chen.

Comments on natural gas utilities' Phase I Proposals for pre-approved full cost recovery of contracts with liquid natural gas (LNG) suppliers and the costs of interconnecting their systems with LNG facilities. Comments in California Public Utilities Commission Rulemaking 04-01-025. March 23, 2004.

The 2003 Blackout: Solutions that Won't Cost a Fortune, The Electricity Journal, November 2003, with David White, Amy Roschelle, Paul Peterson, Bruce Biewald, and William Steinhurst.

The Impact of Converting the Cooling Systems at Indian Point Units 2 and 3 on Electric System Reliability. An Analysis for Riverkeeper, Inc. November 3, 2003.

The Impact of Converting Indian Point Units 2 and 3 to Closed-Cycle Cooling Systems with Cooling Towers on Energy's Likely Future Earnings. An Analysis for Riverkeeper, Inc. November 3, 2003.

Entergy's Lost Revenues During Outages of Indian Point Units 2 and 3 to Convert to Closed-Cycle Cooling Systems. An Analysis for Riverkeeper, Inc. November 3, 2003.

Power Plant Repowering as a Strategy for Reducing Water Consumption at Existing Electric Generating Facilities. A presentation at the May 2003 Symposium on Cooling Water Intake Technologies to Protect Aquatic Organisms. May 6, 2003.

Financial Insecurity: The Increasing Use of Limited Liability Companies and Multi-tiered Holding Companies to Own Electric Generating Plants. A presentation at the 2002 NASUCA Annual Meeting. November 12, 2002.

Determining the Need for Proposed Overhead Transmission Facilities. A Presentation by David Schlissel and Paul Peterson to the Task Force and Working Group for Connecticut Public Act 02-95. October 17, 2002.

Future PG&E Net Revenues From The Sale of Electricity Generated at its Brayton Point Station. An Analysis for the Attorney General of the State of Rhode Island. October 2, 2002.

PG&E's Net Revenues From The Sale of Electricity Generated at its Brayton Point Station During the Years 1999-2002. An Analysis for the Attorney General of the State of Rhode Island. October 2, 2002.

Financial Insecurity: The Increasing Use of Limited Liability Companies and Multi-Tiered Holding Companies to Own Nuclear Power Plants. A Synapse report for the STAR Foundation and Riverkeeper, Inc., by David Schlissel, Paul Peterson, and Bruce Biewald, August 7, 2002.

Comments on EPA's Proposed Clean Water Act Section 316(b) for Cooling Water Intake Structures at Phase II Existing Facilities, on behalf of Riverkeeper, Inc., by David Schlissel and Geoffrey Keith, August 2002.

The Impact of Retiring the Indian Point Nuclear Power Station on Electric System Reliability. A Synapse Report for Riverkeeper, Inc. and Pace Law School Energy Project. May 7, 2002.

Preliminary Assessment of the Need for the Proposed Plumtree-Norwalk 345-kV Transmission Line. A Synapse Report for the Towns of Bethel, Redding, Weston, and Wilton Connecticut. October 15, 2001.

ISO New England's Generating Unit Availability Study: Where's the Beef? A Presentation at the June 29, 2001 Restructuring Roundtable.

Clean Air and Reliable Power: Connecticut Legislative House Bill HB6365 will not Jeopardize Electric System Reliability. A Synapse Report for the Clean Air Task Force. May 2001.

Room to Breathe: Why the Massachusetts Department of Environmental Protection's Proposed Air Regulations are Compatible with Reliability. A Synapse Report for MASSPIRG and the Clean Water Fund. March 2001.

Generator Outage Increases: A Preliminary Analysis of Outage Trends in the New England Electricity Market, a Synapse Report for the Union of Concerned Scientists, January 7, 2001.

Cost, Grid Reliability Concerns on the Rise Amid Restructuring, with Charlie Harak, Boston Business Journal, August 18-24, 2000.

Report on Indian Point 2 Steam Generator Issues, Schlissel Technical Consulting, Inc., March 10, 2000.

Preliminary Expert Report in Case 96-016613, Cities of Wharton, Pasadena, et al v. Houston Lighting & Power Company, October 28, 1999.

Comments of Schlissel Technical Consulting, Inc. on the Nuclear Regulatory Commission's Draft Policy Statement on Electric Industry Economic Deregulation, February 1997.

Report to the Municipal Electric Utility Association of New York State on the Cost of Decommissioning the Fitzpatrick Nuclear Plant, August 1996.

Report to the Staff of the Arizona Corporation Commission on U.S. West Corporation's telephone cable repair and replacement programs, May, 1996.

Nuclear Power in the Competitive Environment, NRRI Quarterly Bulletin, Vol. 16, No. 3, Fall 1995.

Nuclear Power in the Competitive Environment, presentation at the 18th National Conference of Regulatory Attorneys, Scottsdale, Arizona, May 17, 1995.

The Potential Safety Consequences of Steam Generator Tube Cracking at the Byron and Braidwood Nuclear Stations, a report for the Environmental Law and Policy Center of the Midwest, 1995.

Report to the Public Policy Group Concerning Future Trojan Nuclear Plant Operating Performance and Costs, July 15, 1992.

Report to the New York State Consumer Protection Board on the Costs of the 1991 Refueling Outage of Indian Point 2, December 1991.

Preliminary Report on Excess Capacity Issues to the Public Utility Regulation Board of the City of El Paso, Texas, April 1991.

Nuclear Power Plant Construction Costs, presentation at the November, 1987, Conference of the National Association of State Utility Consumer Advocates.

Comments on the Final Report of the National Electric Reliability Study, a report for the New York State Consumer Protection Board, February 27, 1981.

OTHER SIGNIFICANT INVESTIGATIONS AND LITIGATION SUPPORT WORK

Reviewed the salt deposition mitigation strategy proposed for Reliant Energy's repowering of its Astoria Generating Station. October 2002 through February 2003.

Assisted the Connecticut Office of Consumer Counsel in reviewing the auction of Connecticut Light & Power Company's power purchase agreements. August and September, 2000.

Assisted the New Jersey Division of the Ratepayer Advocate in evaluating the reasonableness of Atlantic City Electric Company's proposed sale of its fossil generating facilities. June and July, 2000.

Investigated whether the 1996-1998 outages of the three Millstone Nuclear Units were caused or extended by mismanagement. 1997 and 1998. Clients were the Connecticut Office of Consumer Counsel and the Office of the Attorney General of the Commonwealth of Massachusetts.

Investigated whether the 1995-1997 outages of the two units at the Salem Nuclear Station were caused or extended by mismanagement. 1996-1997. Client was the New Jersey Division of the Ratepayer Advocate.

Assisted the Associated Industries of Massachusetts in quantifying the stranded costs associated with utility generating plants in the New England states. May through July, 1996

Investigated whether the December 25, 1993, turbine generator failure and fire at the Fermi 2 generating plant was caused by Detroit Edison Company's mismanagement of fabrication, operation or maintenance. 1995. Client was the Attorney General of the State of Michigan.

Investigated whether the outages of the two units at the South Texas Nuclear Generating Station during the years 1990 through 1994 were caused or extended by mismanagement. Client was the Texas Office of Public Utility Counsel.

Assisted the City Public Service Board of San Antonio, Texas in litigation over Houston Lighting & Power Company's management of operations of the South Texas Nuclear Generating Station.

Investigated whether outages of the Millstone nuclear units during the years 1991 through 1994 were caused or extended by mismanagement. Client was the Office of the Attorney General of the Commonwealth of Massachusetts.

Evaluated the 1994 Decommissioning Cost Estimate for the Maine Yankee Nuclear Plant. Client was the Public Advocate of the State of Maine.

Evaluated the 1994 Decommissioning Cost Estimate for the Seabrook Nuclear Plant. Clients were investment firms that were evaluating whether to purchase the Great Bay Power Company, one of Seabrook's minority owners.

Investigated whether a proposed natural-gas fired generating facility was need to ensure adequate levels of system reliability. Examined the potential impacts of environmental regulations on the unit's expected construction cost and schedule. 1992. Client was the New Jersey Rate Counsel.

Investigated whether Public Service Company of New Mexico management had adequately disclosed to potential investors the risk that it would be unable to market its excess generating capacity. Clients were individual shareholders of Public Service Company of New Mexico.

Investigated whether the Seabrook Nuclear Plant was prudently designed and constructed. 1989. Clients were the Connecticut Office of Consumer Counsel and the Attorney General of the State of Connecticut.

Investigated whether Carolina Power & Light Company had prudently managed the design and construction of the Harris nuclear plant. 1988-1989. Clients were the North Carolina Electric Municipal Power Agency and the City of Fayetteville, North Carolina.

Investigated whether the Grand Gulf nuclear plant had been prudently designed and constructed. 1988. Client was the Arkansas Public Service Commission.

Reviewed the financial incentive program proposed by the New York State Public Service Commission to improve nuclear power plant safety. 1987. Client was the New York State Consumer Protection Board.

Reviewed the construction cost and schedule of the Hope Creek Nuclear Generating Station. 1986-1987. Client was the New Jersey Rate Counsel.

Reviewed the operating performance of the Fort St. Vrain Nuclear Plant. 1985. Client was the Colorado Office of Consumer Counsel.

WORK HISTORY

2000 - Present: Senior Consultant, Synapse Energy Economics, Inc.

1994 - 2000: President, Schlissel Technical Consulting, Inc.

1983 - 1994: Director, Schlissel Engineering Associates

1979 - 1983: Private Legal and Consulting Practice

1975 - 1979: Attorney, New York State Consumer Protection Board

1973 - 1975: Staff Attorney, Georgia Power Project

EDUCATION

1983-1985: Massachusetts Institute of Technology
Special Graduate Student in Nuclear Engineering and Project Management,

1973: Stanford Law School,
Juris Doctor

1969: Stanford University
Master of Science in Astronautical Engineering,

1968: Massachusetts Institute of Technology
Bachelor of Science in Astronautical Engineering,

PROFESSIONAL MEMBERSHIPS

- New York State Bar since 1981
- American Nuclear Society
- National Association of Corrosion Engineers
- National Academy of Forensic Engineers (Correspondent Affiliate)

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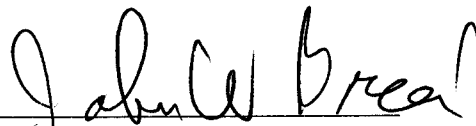
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The above motion was filed by electronic mail on June 18,
2007.



John W. Breen Jr.

June 18, 2007