

**STATE OF CONNECTICUT**  
**BEFORE THE DEPARTMENT OF PUBLIC UTILITY CONTROL**

)

DPUC Investigation of Measures to )  
Reduce Federally Mandated Congestion )  
Charges )

**Docket No. 05-07-18**

**DIRECT TESTIMONY OF**  
**PAUL CHERNICK**  
**ON BEHALF OF**  
**THE OFFICE OF CONSUMER COUNSEL**

Resource Insight, Inc.

**SEPTEMBER 21, 2005**

**TABLE OF CONTENTS**

I. Identification and Qualifications ..... 1  
II. Introduction..... 4  
III. Financial Impacts..... 5

**EXHIBITS**

Exhibit\_\_\_PLC-1

*Professional Qualifications of Paul Chernick*

1 **I. Identification and Qualifications**

2 **Q: Mr. Chernick, please state your name, occupation and business address.**

3 A: I am Paul L. Chernick. I am the president of Resource Insight, Inc., 5 Water  
4 St, Arlington, Massachusetts.

5 **Q: Summarize your professional education and experience.**

6 A: I received an SB degree from the Massachusetts Institute of Technology in  
7 June 1974 from the Civil Engineering Department, and an SM degree from  
8 the Massachusetts Institute of Technology in February 1978 in technology  
9 and policy. I have been elected to membership in the civil engineering  
10 honorary society Chi Epsilon, and the engineering honor society Tau Beta Pi,  
11 and to associate membership in the research honorary society Sigma Xi.

12 I was a utility analyst for the Massachusetts Attorney General for more  
13 than three years, and was involved in numerous aspects of utility rate design,  
14 costing, load forecasting, and the evaluation of power supply options. Since  
15 1981, I have been a consultant in utility regulation and planning, first as a  
16 research associate at Analysis and Inference, after 1986 as president of PLC,  
17 Inc., and in my current position at Resource Insight. In these capacities, I  
18 have advised a variety of clients on utility matters.

19 My work has considered, among other things, the cost-effectiveness of  
20 prospective new generation plants and transmission lines, retrospective  
21 review of generation-planning decisions, ratemaking for plant under construc-  
22 tion, ratemaking for excess and/or uneconomical plant entering service,  
23 conservation program design, cost recovery for utility efficiency programs,  
24 the valuation of environmental externalities from energy production and use,  
25 allocation of costs of service between rate classes and jurisdictions, design of

1 retail and wholesale rates, and performance-based ratemaking (PBR) and cost  
2 recovery in restructured gas and electric industries. My professional qualifi-  
3 cations are further summarized in Exhibit\_\_\_\_PLC-1.

4 **Q: Have you testified previously in utility proceedings?**

5 A: Yes. I have testified approximately one hundred and ninety times on utility  
6 issues before various regulatory, legislative, and judicial bodies, including the  
7 Arizona Commerce Commission, Connecticut Department of Public Utility  
8 Control, District of Columbia Public Service Commission, Florida Public  
9 Service Commission, Maryland Public Service Commission, Massachusetts  
10 Department of Public Utilities, Massachusetts Energy Facilities Siting  
11 Council, Michigan Public Service Commission, Minnesota Public Utilities  
12 Commission, Mississippi Public Service Commission, New Mexico Public  
13 Service Commission, New Orleans City Council, New York Public Service  
14 Commission, North Carolina Utilities Commission, Public Utilities Commis-  
15 sion of Ohio, Pennsylvania Public Utilities Commission, Rhode Island Public  
16 Utilities Commission, South Carolina Public Service Commission, Texas  
17 Public Utilities Commission, Utah Public Service Commission, Vermont  
18 Public Service Board, Washington Utilities and Transportation Commission,  
19 West Virginia Public Service Commission, Federal Energy Regulatory Com-  
20 mission, and the Atomic Safety and Licensing Board of the U.S. Nuclear  
21 Regulatory Commission.

22 **Q: Have you testified previously before the Connecticut Department of**  
23 **Public Utility Control (the Department)?**

24 A: Yes. I testified in

- 25 • Docket No. 83-03-01, a United Illuminating (UI) rate case, on behalf of  
26 the Office of Consumer Counsel (OCC), on Seabrook costs.

- 1           • Docket No. 83-07-15, a Connecticut Light and Power (CL&P) rate case,  
2           on behalf of Alloy Foundry, on industrial rate design.
- 3           • Docket No. 99-02-05, the CL&P stranded-cost docket.
- 4           • Docket No. 99-03-04, the UI stranded-cost docket.
- 5           • Docket No. 99-03-35, the UI standard-offer docket.
- 6           • Docket No. 99-03-36 (initial phase), the CL&P-standard-offer docket.
- 7           • Docket No. 99-08-01, investigation into electric capacity and  
8           distribution.
- 9           • Docket No. 99-09-12, the nuclear-divestiture plan for CL&P and UI.
- 10          • Docket No. 99-09-03, on the performance-based ratemaking proposal of  
11          Connecticut Natural Gas.
- 12          • Docket No. 99-09-12 RE01, on the Millstone auction.
- 13          • Docket No. 99-03-36 RE03, on CL&P's Generation Services Charge.
- 14          • Dockets Nos. 99-04-18 Phase 3 and 99-09-03 Phase 2, on the proposed  
15          earnings-sharing mechanism of Southern Connecticut Natural Gas and  
16          Connecticut Natural Gas.
- 17          • Docket No. 03-07-02, on behalf of AARP, on the distribution  
18          investment plan and rates for CL&P.
- 19          • Docket No. 03-07-01, on behalf of AARP, on the application of the rate  
20          cap to CL&P's transitional standard offer.
- 21          • Dockets No. 03-07-01RE1 and 03-07-15RE2, on CL&P and UI requests  
22          for incentives for mitigating transitional standard offer costs.

23            Except as noted, this testimony was on behalf of the OCC. I also  
24    testified on behalf of the OCC in Connecticut Siting Council Docket No. 217,  
25    on the proposed transmission upgrades to southwestern Connecticut.

1 **II. Introduction**

2 **Q: On whose behalf are you testifying?**

3 A: My testimony is sponsored by the Office of Consumer Counsel.

4 **Q: What is the purpose of your direct testimony?**

5 A: The Office of Consumer Counsel has asked me to review the scope of  
6 Subsection 12 (l) of Public Act 05-01, June Special Session, known as An  
7 Act Concerning Energy Independence (the Act). That section requires the  
8 Department “to investigate any impact on the financial condition of electric  
9 distribution companies of long-term contracts entered into pursuant to this  
10 section.” Elsewhere, Section 12 requires the Department to identify, and the  
11 utilities to implement,

12           measures that can reduce federally mandated congestion charges.... Such  
13           measures may include, but shall not be limited to, demand response  
14           programs, other distributed resources, and contracts between an electric  
15           distribution company...and an owner of generation resources for the  
16           capacity of such resources. (Subsection 12 (a))

17 and requires the Department to

18           solicit the development of long-term projects designed to reduce  
19           federally mandated congestion charges.... For purposes of this section,  
20           projects shall include (1) customer-side distributed resources, (2) grid-  
21           side distributed resources, (3) new generation facilities, including  
22           expanded or repowered generation, and (4) contracts for a term of no  
23           more than fifteen years between a person and an electric distribution  
24           company for the purchase of electric capacity rights. (Subsection 12 (c))

25 **Q: What do you conclude?**

26 A: Any financial impacts on the utilities that may result from any resources  
27 acquired under Section 12(c) of the Act initiatives are adequately addressed  
28 in other portions of the Act, so no rate adjustments are necessary under  
29 Subsection 12(l) to mitigate the effects of Section 12(c) activities.

1 **III. Financial Impacts**

2 **Q: What is the potential scope of Subsection 12(l)?**

3 A: Subsection 12 (l) specifically cross-references Subsection 12(c) of the Act.  
4 Thus, Subsection 12(l) can be read as covering potential financial effects of  
5 any contracts the utility signs to acquire energy efficiency, load management,  
6 fuel switching, distributed generation or storage (on the customer side of the  
7 meter, on the distribution system, or at substations) or central generation.

8 The Joint Testimony of George J. Eckenroth and Richard A. Soderman,  
9 filed by CL&P on September 2, 2005, deals with Subsection 12(l) only with  
10 respect to long-term capacity contracts (Eckenroth and Soderman at 3). The  
11 specific issues raised by Eckenroth and Soderman are the subject of the  
12 testimony of OCC Witness Dr. J. Randall Woolridge.

13 **Q: How could those resources affect the financial condition of electric**  
14 **distribution companies?**

15 A: Acquisition of any of those resources could impose direct costs on the utility,  
16 which in turn could affect the financial condition of the utility, if the costs are  
17 not recovered from ratepayers. Some of the resources—energy efficiency and  
18 customer-side distributed generation—can reduce utility sales and revenues.

19 Less directly, if the recovery of costs or lost revenues is uncertain, the  
20 financial markets may consider the utility's securities to be riskier.

21 **Q: Does the Act deal with the recovery of direct costs?**

22 A: Yes. Subsection 12(a) provides that “The company’s costs associated with  
23 complying with the provisions of this section shall be recoverable through  
24 federally mandated congestion charges.” Subsection 15(a) provides that “An  
25 electric distribution company may recover its costs and investments that have  
26 been prudently incurred” for the purposes of the Act in any of several ways,

1 including general rate cases, the energy adjustment clause, or the federally  
2 mandated congestion charges.

3 There is thus no need to consider recovery of direct costs under  
4 Subsection 12 (1).

5 **Q: Does the Act deal with the recovery of lost revenues?**

6 A: Yes. Subsection 15(a) provides that “If an electric distribution company has,  
7 for six consecutive months, earned a return on equity below the return  
8 authorized by the department, earnings of such electric distribution  
9 companies that are adversely affected owing to decreased energy use  
10 attributable to implementation of” the Act “are recoverable pursuant to the  
11 provisions of section 16-19kk of the general statutes.” There is no need to  
12 consider recovery of lost revenues under Subsection 12 (1).

13 **Q: Have you reviewed the testimony of CL&P witnesses George Eckenroth  
14 and Richard Soderman, which requests compensation for alleged costs  
15 to the utility of purchased-power agreements entered into under Section  
16 12 of the Act?**

17 A: Yes. OCC Witness Dr. Woolridge responds to that proposal, in his direct  
18 testimony, being filed in this docket simultaneously with my own.

19 **Q: Is the position taken by Messrs. Eckenroth and Soderman familiar to  
20 you?**

21 A: Yes. The argument resembles the argument of utilities in the 1980s and early  
22 1990s for similar compensation for alleged financial costs of purchases from  
23 qualifying projects under PURPA and other non-utility generation.



1 **Q: Were utilities successful in convincing regulators that they should be**  
2 **compensated for alleged indirect financial costs of purchased-power**  
3 **agreements?**

4 A: I do not believe that they were widely successful. I have found no evidence  
5 that the Department accepted this argument.

6 **Q: In their testimony in this docket, Messrs. Eckenroth and Soderman**  
7 **(page 9) assert that only the capacity portion of purchased-power**  
8 **agreements affects utility financial ratings. Is this consistent with the**  
9 **utilities' previous positions?**

10 A: No. The CL&P witnesses appear be contrasting the purchased-power  
11 agreements that may be signed under the Act with those from the 1980s and  
12 1990s, which were usually structured as energy purchases. As I recall the  
13 earlier arguments, and as I read the Standard and Poor's documents to which  
14 CL&P and other utilities refer, the argument traditionally has been applied to  
15 all fixed costs (including mandatory energy purchases), not specifically to  
16 capacity costs.<sup>1</sup> If the Department was not convinced that the \$250 million or  
17 so in annual fixed energy charges from CL&P's pre-restructuring IPP  
18 contracts required an adjustment to CL&P's return in the early 1990s, I see  
19 no reason for it to accept the same argument in this new context.

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<sup>1</sup> A capacity charge, with adjustment for availability, is essentially the same as a take-or-pay energy charge.

1 **Q: Notwithstanding your testimony and Dr. Woolridge's, if the Department**  
2 **decides to include some adjustment for imputed debt for some contracts**  
3 **with central generation, should that imputation flow through to the**  
4 **utilities immediately?**

5 A: No. The purpose of Section 12 of the Act is to mitigate FMCC charges, and  
6 that purpose should not be undermined by payments to the utilities. Any  
7 special compensation to the utilities should not start until actual FMCC  
8 savings are realized. The utilities incur no costs of revised ratings until (and  
9 unless) ratings are actually reduced, so there is no urgency in flowing  
10 compensation through to the utilities.

11 **Q: Does this conclude your testimony?**

12 A: Yes.