

**STATE OF MARYLAND**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of the Merger of            )**  
**Constellation Energy Group, Inc. and    )**  
**FPL Group, Inc.                                )**

**Case No. 9054**

**REPLY TESTIMONY OF**  
**JONATHAN WALLACH**  
**ON BEHALF OF**  
**THE MARYLAND OFFICE OF PEOPLES' COUNSEL**

Resource Insight, Inc.

**JUNE 12, 2006**

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Exhibit JFW-1    *Professional Qualifications of Jonathan Wallach*

Attachment 1    *Discovery Responses*

1 **I. Introduction and Qualifications**

2 **Q: Please state your name, occupation, and business address.**

3 A: I am Jonathan F. Wallach. I am Vice President of Resource Insight, Inc., 5  
4 Water Street, Arlington, Massachusetts.

5 **Q: Please summarize your professional education and experience.**

6 A: I have worked as a consultant to the electric-power industry for more than  
7 two decades. From 1981 to 1986, I was a research associate at Energy  
8 Systems Research Group. In 1987 and 1988, I was an independent  
9 consultant. From 1989 to 1990, I was a senior analyst at Komanoff Energy  
10 Associates. I have been in my current position at Resource Insight since  
11 September of 1990.

12 Over the last twenty-five years, I have advised clients on a wide range  
13 of economic, planning, and policy issues including: electric-utility  
14 restructuring; wholesale-power market design and operations; transmission  
15 pricing and policy; market valuation of generating assets and purchase  
16 contracts; power-procurement strategies; integrated resource planning; cost  
17 allocation and rate design; and energy-efficiency program design and  
18 planning.

19 My resume is attached as Exhibit JFW-1.

20 **Q: Have you testified previously before this Commission?**

21 A: I testified in Case Nos. 8794, 8795, and 8797 (regarding electric  
22 restructuring), 8890 (regarding the proposed merger of Potomac Electric  
23 Power and Delmarva Power & Light), and 8908 (regarding procurement of  
24 Standard Offer Service.) I also testified in Case Nos. 8852 (regarding

1 Potomac Electric Power Company’s proposed fees for electricity-supplier  
2 services), 8994 and 8995 (regarding determination of the residential SOS  
3 Administrative Charge), and 8985 (regarding Southern Maryland Electric  
4 Coop’s SOS procurement plan). Most recently, I testified in Case Nos. 9052  
5 (regarding Baltimore Gas & Electric’s deferral plan) and 9056 (regarding  
6 default service for Type II customers.)

7 **II. Overview**

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

9 A: I am testifying on behalf of the Office of the People’s Counsel.

10 **Q: What is the purpose of your testimony?**

11 A: On January 23, 2006, Baltimore Gas and Electric Company (“BGE”; “the  
12 Company”) filed a Petition and supporting testimony regarding a proposed  
13 merger of Constellation Energy Group and FPL Group (collectively  
14 “Applicants”). Pursuant to the Commission’s Notice of Revised Procedural  
15 Schedule, BGE subsequently filed additional supporting testimony on May  
16 12, 2006. This reply testimony addresses the potential benefits and costs to  
17 ratepayers of the proposed merger, and assesses whether the proposed merger  
18 is in the public interest.

19 People’s Counsel is also sponsoring testimony from Mr. David Effron  
20 and Mr. Peter Lanzalotta. I rely on the testimony of these other OPC  
21 witnesses to support my findings and conclusions regarding the proposed  
22 merger.

1 **Q: Please summarize your findings.**

2 A: The Company has failed to show that the proposed merger is likely to  
3 provide net benefits to ratepayers or even that the proposed merger will not  
4 have a material adverse effect on its franchise. While Applicants have  
5 undoubtedly devoted significant resources to the determination of whether  
6 the proposed merger enhances shareholder value, they have not bothered to  
7 thoroughly investigate whether the merger would provide tangible benefits to  
8 customers or whether such benefits outweigh the known and potential costs  
9 to ratepayers.

10 The Company has not conducted a comprehensive and detailed study of  
11 the potential cost savings achievable with the merger or the costs to achieve  
12 such savings. Instead, BGE's parent conducted what was described by BGE's  
13 witness as "a very high level review" that provided a "rough order of  
14 magnitude of the possible savings to BGE."<sup>1</sup>

15 In addition to the expected direct costs to achieve the merger transaction  
16 and to integrate the two companies, ratepayers bear the risk of a number of  
17 potential indirect costs associated with the merger. These include: potential  
18 loss of competition in the SOS supply market; potential degradation in  
19 reliability and service quality (as discussed in Mr. Lanzalotta's testimony);  
20 risk of diluted management attention to regulated operations during the  
21 merger transition and afterwards; and potential degradation in quality in  
22 management, planning, and administrative functions due to merger-related  
23 cost-cutting.

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<sup>1</sup> *Supplemental Direct Testimony of Kenneth W. Defontes, Jr.*, Maryland PSC Case No. 9054, May 12, 2006, p. 5.

1           BGE's filing lacks a comprehensive and detailed plan for guaranteeing  
2           that merger savings outweigh expected costs and potential risks. Moreover,  
3           BGE's filing offers no protection against the other merger-related risks noted  
4           above. Finally, the Company's offer of \$600 million over ten years is not  
5           guaranteed; loopholes and contingencies raise the risk that eventual recovery  
6           will be substantially less than the amount offered. In fact, even if the  
7           Commission approves the merger, the Company's offer will be withdrawn if  
8           the merger does not close by December 31, 2006.

9           **Q: What do you recommend with regard to BGE's Petition?**

10          A: The Commission should not approve the merger, unless and until BGE: (1)  
11          shows that the proposal does not adversely effect its franchise; and (2)  
12          proposes a plan to provide certain and verifiable net benefits to ratepayers. I  
13          further recommend that BGE be required to re-file a petition that includes  
14          both a detailed analysis of merger-related costs and savings and a proposed  
15          mechanism for guaranteeing that the net benefits of the merger flow to  
16          ratepayers.

17          **Q: How is the remainder of your testimony organized?**

18          A: The next two sections describe the proposed merger transaction and BGE's  
19          claims regarding potential ratepayer benefits from the merger. Section V  
20          discusses the known and potential costs to ratepayers arising from the  
21          merger. Section VI discusses the Company's \$600 million offer.

1 **III. Proposed Transaction**

2 **Q: Please briefly describe the proposed transaction.**

3 A: According to the Company's filing, FPL Group will acquire Constellation  
4 Energy in an all-stock transaction. The new company will retain the name of  
5 Constellation Energy. Constellation shareholders will receive 1.444 shares of  
6 stock in the post-merger Constellation for every share of stock in the pre-  
7 merger Constellation. FPL Group shareholders will receive one share of  
8 stock in the post-merger Constellation for every share of FPL Group.<sup>2</sup> In  
9 essence, Constellation shareholders will receive 1.444 FPL shares for every 1  
10 Constellation share.

11 **Q: What is the financial benefit of the acquisition to Constellation's**  
12 **shareholders?**

13 A: The transaction creates value for Constellation's shareholders by acquiring  
14 outstanding shares at a substantial premium to market price. According to the  
15 merger applicants, the 1.444-for-1 stock conversion represents a premium of  
16 about 15% over Constellation's average share price prior to announcement of  
17 the proposed merger.<sup>3</sup>

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<sup>2</sup> *Petition of Baltimore Gas and Electric Company*, Maryland PSC Case No. 9054, January 23, 2006, paragraph 16.

<sup>3</sup> "Creating the Premier Competitive Energy Company: Investor Presentation", December 19, 2005, provided in response to Staff Data Request No. 1, Item No. 81.

1 **Q: Is the merger expected to create value for FPL Group shareholders?**

2 A: Apparently so. According to material provided in response to discovery, the  
3 consensus opinion among ratings analysts is that the merger is expected to  
4 increase earnings per share even if merger synergies are not achieved.<sup>4</sup>

5 **IV. Claimed Ratepayer Benefits**

6 **Q: Does BGE claim that the proposed merger will benefit ratepayers?**

7 A: Yes. According to the testimony of BGE witness Kathleen W. Hyle, the  
8 proposed merger could potentially reduce BGE's cost of service through  
9 consolidation of corporate functions; sharing of "best practices" between the  
10 two utilities; and enhanced scale economies:

11 Over a period of several years following the merger, some synergies are  
12 expected to be realized by adding scale to back office and headquarters  
13 functions and migrating to common systems, leading to lower  
14 transaction costs. We also anticipate leveraging our procurement  
15 processes to take advantage of larger scale and potential lower unit costs  
16 from volume purchases.<sup>5</sup>

17 **Q: Have Constellation or BGE conducted a comprehensive and detailed**  
18 **analysis of cost reductions to support BGE's claim of potential ratepayer**  
19 **savings?**

20 A: No. While the Company identifies potential sources of savings, it has not  
21 performed a detailed analysis of the potential magnitude of such savings, nor  
22 thoroughly investigated whether such savings are likely to exceed merger  
23 costs. According to the Company, "neither Constellation nor BGE have

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<sup>4</sup> Response to Staff Data Request No. 1, Item No. 51.

<sup>5</sup> *Direct Testimony of Kathleen W. Hyle*, Maryland PSC Case No. 9054, May 12, 2006, pp. 3-4.



1 undertaken detailed studies to estimate such savings, either prior to or  
2 following the merger announcement.”<sup>6</sup>

3 Instead, Constellation undertook a “preliminary internal evaluation” in  
4 November of 2005 to develop an “indicative” valuation of potential savings.<sup>7</sup>  
5 The merger applicants also retained a third-party consultant to evaluate  
6 merger benefits. However, both of these reviews “were not important factors  
7 in our analyses and assessment of the merger and did not draw rigorous  
8 review or scrutiny by management.”<sup>8</sup> Rather than rely on these studies,  
9 management instead “exercised its own business judgment and made an  
10 independent high level estimate” of potential savings of \$200-\$250 million.<sup>9</sup>

11 Consequently, BGE lacks a credible and reliable analytical basis to  
12 support either its claim of ratepayer savings from the proposed merger or its  
13 claim that the merger will not have a material adverse impact on its franchise.

14 **Q: What is the Company’s explanation for not conducting or relying on a**  
15 **comprehensive and detailed analysis of merger savings?**

16 A: As the Company put it, this merger “is not being driven by expected  
17 synergies.”<sup>10</sup> In other words, Applicants did not expect the merger to yield  
18 material benefits to ratepayers and therefore did not perceive value in  
19 undertaking detailed evaluations of potential savings.

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<sup>6</sup> *Id.*, p. 4.

<sup>7</sup> *Id.*, p. 5.

<sup>8</sup> *Id.*

<sup>9</sup> Response to Staff Data Request No. 1, Item No. 71.

<sup>10</sup> *Direct Testimony of Kathleen W. Hyle*, p. 4.

1 **Q: Is this a valid argument for not analyzing potential cost reductions?**

2 A: No. If the Company expects ratepayers benefits to be insubstantial, then the  
3 prudent course of action would be to take the necessary steps and undertake  
4 the detailed analyses required to ensure that merger-related costs to  
5 consumers would not in fact exceed these insubstantial benefits. The  
6 Company did not do so, and thus failed to show that the proposed merger  
7 would not adversely impact ratepayers.

8 **V. Merger Costs and Risks**

9 **Q: What are the major cost categories associated with the merger**  
10 **transaction?**

11 A: The major cost elements are: (1) the acquisition premium (otherwise known  
12 as “goodwill”) associated with the acquisition of Constellation’s assets at a  
13 premium to fair value; (2) transaction costs to complete the merger  
14 transaction, such as fees to financial advisors; and (3) transition costs  
15 incurred in the process of consolidating the two companies following closing  
16 of the merger transaction. In addition, the merger may give rise to executive  
17 severance and supplemental benefit costs (“golden parachute” costs), the  
18 components of which can be classified as either transaction or transition  
19 costs.

20 **Q: What is the amount to be recorded for the acquisition premium?**

21 A: According to Mr. Effron, this amount has not yet been determined. However,  
22 he estimates that the amount will exceed \$6 billion.

1 **Q: What is the expected cost to achieve the merger transaction?**

2 A: Constellation currently estimates that its share of the transaction costs will  
3 amount to approximately \$40 million.<sup>11</sup>

4 **Q: Has the Company estimated the likely amount of transition costs  
5 associated with integrating the two companies?**

6 A: According to the Company, “detailed integration planning has not yet been  
7 undertaken.”<sup>12</sup> In fact, according to recent news reports, Applicants have  
8 stopped working on the integration of the two companies.

9 Instead, the Company has conducted a “high level analysis” that  
10 estimated Constellation-wide post-closing transition expenses of \$65 million  
11 and capital expenditures of \$160 million.<sup>13</sup>

12 **Q: How does BGE propose to recover transaction and transition costs from  
13 ratepayers?**

14 A: The Company intends to recover merger-related costs only to the extent that  
15 merger-related savings offset such costs.<sup>14</sup>

16 **Q: Does this proposal adequately ensure that merger-related costs will not  
17 exceed merger-related savings?**

18 A: No. The Company has not proposed a detailed plan for distinguishing cost  
19 increases or reductions that are specifically the result of the merger from  
20 those that result from the normal course of utility operations. For example, if  
21 a staff position is eliminated at some time after the merger, there will need to

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<sup>11</sup> Response to OPC Data Request No. 5, Item No. 7.

<sup>12</sup> Response to Staff Data Request No. 1, Item No. 73.

<sup>13</sup> Response to OPC Data Request No. 5, Item No. 8.

<sup>14</sup> Response to Staff Data Request No. 1, Item No. 64.

1 be some protocol or procedure in place to determine whether the position was  
2 eliminated as a result of the merger or because of changes unrelated to the  
3 merger (e.g., the position was eliminated in response to a decline in demand  
4 for the service provided.)

5 Without such a detailed plan, there is a significant risk that the  
6 commitment to recover only costs that are offset by benefits would be  
7 circumvented.<sup>15</sup> There are two ways this could happen. First, merger-related  
8 costs could be understated by inappropriately reflecting them in the cost of  
9 service as costs unrelated to the merger. Any such merger-related costs not  
10 identified as such in the cost of service would be recovered from ratepayers  
11 through the normal ratemaking process regardless of whether there are  
12 offsetting benefits. Second, merger-related savings could be overstated by  
13 mislabeling unrelated cost reductions as merger-related. Under BGE's  
14 proposal, each dollar of claimed savings above actual savings would allow  
15 recovery of an additional dollar of merger-related costs in excess of actual  
16 savings. In either case, the result would be that ratepayers are charged for  
17 actual merger-related costs that exceed actual merger-related savings, and  
18 therefore that ratepayers face higher bills with the merger than without it.

19 Unfortunately, even with a detailed plan, it may be extremely difficult  
20 to ascertain whether particular categories of costs or benefits result from the  
21 merger or from the normal course of operations. For example, if savings are  
22 claimed from the adoption of "best practices", it will be virtually impossible  
23 to determine whether these best practices were adopted as a result of the  
24 merger or would have been adopted anyway. There may be other types of

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<sup>15</sup> This risk is increased by the absence of a detailed projection of merger costs and savings against which actual results can be benchmarked.

1 benefit claims that simply cannot be verified, such as scale savings in bulk  
2 purchasing.

3 In addition, BGE's proposal does not protect ratepayers from potential  
4 indirect costs arising from the merger. It is extremely unlikely that such  
5 indirect costs could be specifically identified as arising from the merger, and  
6 thus excluded from recovery in the absence of offsetting benefits. If not  
7 appropriately identified, such indirect merger-related costs will instead  
8 simply be reflected in cost of service regardless of the extent to which they  
9 are offset by merger benefits.

10 **Q: What are some of the indirect costs that might arise as a result of this**  
11 **merger?**

12 A: The merger could indirectly give rise to a number of costs to ratepayers,  
13 including:

- 14 • Increases in residential SOS supply costs as a result of the consolidation  
15 of two potential suppliers in the BGE market.
- 16 • Potential degradation in reliability and service quality due to  
17 management distraction and cost-cutting during the merger transition.  
18 These problems are discussed by Mr. Lanzalotta.
- 19 • As with reliability and service quality, the quality of the utilities'  
20 management, planning, and administrative functions could suffer as a  
21 result of management distraction and cost-cutting during the merger  
22 transition.
- 23 • Management attention to regulated operations and to Commission  
24 concerns may be diluted during the course of the merger transition, and  
25 afterwards as a result of the increased geographic scope of the merged  
26 company and the elimination of management positions.

1 **Q: Why does the consolidation of two potential suppliers of residential SOS**  
2 **supply give rise to concern?**

3 A: The residential SOS market is already highly concentrated: as reported  
4 recently in the press, Constellation is the dominant supplier with  
5 approximately 70% market share. Although the extent of FPL Group's  
6 involvement in the residential SOS market is not publicly known, the  
7 potential loss of a competing supplier raises concerns of even greater market  
8 consolidation. Consumers would be harmed to the extent that increased  
9 market consolidation lessened competitive pressures on SOS supply prices.

10 **Q: How might the merger transition affect the quality of utility**  
11 **management, planning, or administration?**

12 A: During the transition, management is likely to be focused on the complex  
13 task of integrating two companies, and doing so in a manner that maximizes  
14 financial performance. Unfortunately, decisions that enhance short-term  
15 value to shareholders (and, perhaps, reduce costs to ratepayers in the near  
16 term) may have adverse impacts on utility performance in the long term. For  
17 example, performance may suffer from management being spread too thin:  
18 there will be fewer executives (as a result of consolidation and elimination of  
19 positions) with increased responsibilities in managing multiples lines of  
20 business. At each step of the merger-transition process, management will  
21 need to carefully balance the trade-off between short-term benefits and long-  
22 term costs.

1 **Q: What problems could arise from the increased geographic scope of the**  
2 **merged company?**

3 A: To the extent that Applicants reduce costs by having the same management  
4 and staff serve utility operations in Maryland and Florida, their ability to  
5 respond in any one jurisdiction may be impaired. Management may be  
6 particularly distracted during the merger transition, as discussed above, or if  
7 any of the parent company's subsidiaries falls into serious financial or  
8 regulatory difficulty.

9 Problems may arise in terms of resources needed to avoid problems, to  
10 fix problems once they occur, or to explain to regulators what has gone  
11 wrong. In such situations, the Commission could be faced with the problem  
12 of having to share management's attention with other jurisdictions.

## 13 **VI. The \$600 Million Offer**

14 **Q: Please describe the Company's offer.**

15 A: The Company proposes to credit residential rates in the amount of \$60  
16 million per year for a period of ten years. Under this offer, the \$60 million  
17 credit is deemed to consist of the following parts:

- 18 • A refund of revenues from the 1.5 mill return component of the  
19 Administrative Charge in the amount of \$20 million per year.
- 20 • An annual credit of \$18.6 million, equivalent to the amount collected  
21 from BGE customers for nuclear decommissioning.

- 1           • An annual credit for stipulated merger savings, in the amount of \$21.4  
2           million per year.<sup>16</sup>

3   **Q: Does the Company guarantee that ratepayers will be credited the full**  
4   **\$600 million?**

5   A: No. There is a significant risk that ratepayer recovery will be substantially  
6   less than \$600 million as a result of the loopholes and conditions built into  
7   the Company's offer.

8           Ratepayers may not receive any of the \$600 million, since the offer is  
9   contingent on the merger closing by December 31, 2006.<sup>17</sup> Thus, BGE's  
10   offer would be withdrawn if for any reason the merger failed to close by the  
11   end of the year, presumably even if closed one day later.<sup>18</sup> This could create  
12   an untenable situation for the Commission if it were to rule that the merger  
13   was justified on the basis of the benefits provided by the offer, only to find  
14   later that the offer was no longer on the table because of a missed closing  
15   deadline.

16           Even if the merger closes by the offer deadline, ratepayer recovery of  
17   the stipulated amounts for the individual components of the offer is still at  
18   risk. The \$20 million annual amount cited by the Company for the return  
19   component of the offer is a placeholder value; the Company is committing to  
20   refund actual return revenues collected from residential SOS customers. This

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<sup>16</sup> *Supplemental Direct Testimony of Kenneth W. Defontes, Jr.*, p. 2. The amount for stipulated merger savings is simply \$60 million less the \$20 million refund of the return component and less the \$18.6 million decommissioning credit.

<sup>17</sup> Response to OPC Data Request No. 5, Item No. 1.

<sup>18</sup> The fact that Constellation recently halted integration efforts raises a concern that the offer deadline will be missed.



1 placeholder value was estimated assuming that there is no migration of  
2 residential load to competitive retail supply. However, if there is substantial  
3 migration in response to SOS price increases this summer, the actual amount  
4 for the return component of the offer could be substantially less than \$20  
5 million, reflecting the decline in revenues from the 1.5 mill return adder.<sup>19</sup>

6 More critically, there is a significant risk that the annual return refund  
7 would be eliminated before the end of the ten-year offer period. At present,  
8 the Company is allowed to charge the 1.5 mill return adder pursuant to the  
9 terms of the Phase I and II settlement agreements in Case No. 8908. These  
10 agreements expire in 2010. If the Commission does not extend recovery of  
11 the return adder beyond that date, then the Company will eliminate the return  
12 component of the offer for the remaining six years of the ten-year offer  
13 period.<sup>20</sup>

14 Finally, the amount credited for the merger-savings component of the  
15 offer could be less than the \$214 million amount offered over ten years. The  
16 Company reserves the right to reduce the amount of the annual refund to the  
17 extent that it can show in a future rate case that merger savings are reflected  
18 in BGE's cost of service.<sup>21</sup> However, as discussed above in Section V, it  
19 would be extremely difficult to determine whether reductions to cost of  
20 service were in fact attributable to the merger. If cost reductions unrelated to

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<sup>19</sup> In this case, the total annual refund will also be less than the offered \$60 million, with the reduction commensurate with the decrease in the annual refund for the return component of the offer. In other words, the stipulated annual amounts for the other two components will not be increased to compensate for the fact that the actual annual refund for the return component is less than \$20 million. See the response to OPC Data Request No. 5, Item No. 4.

<sup>20</sup> Response to OPC Data Request No. 5, Item No. 2.

<sup>21</sup> *Supplemental Direct Testimony of Kenneth W. Defontes, Jr.*, p. 7.

1 the merger were misattributed to the merger, this condition on the merger-  
2 savings component of the offer would unreasonably deny residential  
3 ratepayers full recovery of the \$214 million stipulated amount for merger-  
4 related savings.<sup>22</sup>

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

6 A: Yes.

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<sup>22</sup> This is a one-sided risk. If merger-related savings were greater than the stipulated amount of \$21.4 million, such excess savings would inure to the benefit of shareholders until such savings were reflected in the Company's cost of service in a future rate case

## Exhibit JFW-1

Qualifications of  
**JONATHAN F. WALLACH**

Resource Insight, Inc.  
5 Water Street  
Arlington, Massachusetts 02476

### SUMMARY OF PROFESSIONAL EXPERIENCE

- 1990–Present* **Vice President, Resource Insight, Inc.** Provides research, technical assistance, and expert testimony on electric- and gas-utility planning, economics, regulation, and restructuring. Designs and assesses resource-planning strategies for regulated and competitive markets, including estimation of market prices and utility-plant stranded investment; negotiates restructuring strategies and implementation plans; assists in procurement of retail power supply.
- 1989–90* **Senior Analyst, Komanoff Energy Associates.** Conducted comprehensive cost-benefit assessments of electric-utility power-supply and demand-side conservation resources, economic and financial analyses of independent power facilities, and analyses of utility-system excess capacity and reliability. Provided expert testimony on statistical analysis of U.S. nuclear plant operating costs and performance. Co-wrote *The Power Analyst*, software developed under contract to the New York Energy Research and Development Authority for screening the economic and financial performance of non-utility power projects.
- 1987–88* **Independent Consultant.** Provided consulting services for Komanoff Energy Associates (New York, New York), Schlissel Engineering Associates (Belmont, Massachusetts), and Energy Systems Research Group (Boston, Massachusetts).
- 1981–86* **Research Associate, Energy Systems Research Group.** Performed analyses of electric utility power supply planning scenarios. Involved in analysis and design of electric and water utility conservation programs. Developed statistical analysis of U.S. nuclear plant operating costs and performance.

### EDUCATION

BA, Political Science with honors and Phi Beta Kappa, University of California, Berkeley, 1980.

Massachusetts Institute of Technology, Cambridge, Massachusetts. Physics and Political Science, 1976–1979.

### PUBLICATIONS

“The Future of Utility Resource planning: Delivering Energy Efficiency through Distributed Utilities” (with Paul Chernick), *International Association for Energy Economics Seventeenth Annual North American Conference* (460–469). Cleveland, Ohio: USAEE. 1996.

“The Price is Right: Restructuring Gain from Market Valuation of Utility Generating Assets” (with Paul Chernick), *International Association for Energy Economics Seventeenth Annual North American Conference* (345–352). Cleveland, Ohio: USAEE. 1996.

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## **PRESENTATIONS**

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“Direct Access Implementation: The California Experience.” Presentation to the Maryland Restructuring Technical Implementation Group on behalf of the Maryland Office of People’s Counsel. June 1998.

“Reflecting Market Expectations in Estimates of Stranded Costs,” speaker, and workshop moderator of “Effectively Valuing Assets and Calculating Stranded Costs.” Conference sponsored by International Business Communications, Washington, D.C., June 1997.

## **EXPERT TESTIMONY**

1989 **Mass. DPU** on behalf of the Massachusetts Executive Office of Energy Resources. Docket No. 89-100. Joint testimony with Paul Chernick relating to statistical analysis of U.S. nuclear-plant capacity factors, operation and maintenance costs, and capital additions; and to projections of capacity factor, O&M, and capital additions for the Pilgrim nuclear plant.

1994 **NY PSC** on behalf of the Pace Energy Project, Natural Resources Defense Council, and Citizen’s Advisory Panel. Case No. 93-E-1123. Joint testimony with John Plunkett critiques proposed modifications to Long Island Lighting Company’s DSM programs from the perspective of least-cost-planning principles.

1994 **Vt. PSB** on behalf of the Vermont Department of Public Service. Docket No. 5270-CV-1 and 5270-CV-3. Testimony and rebuttal testimony discusses rate and bill effects from DSM spending and sponsors load shapes for measure- and program-screening analyses.

1996 **New Orleans City Council** on behalf of the Alliance for Affordable Energy. Docket Nos. UD-92-2A, UD-92-2B, and UD-95-1. Rates, charges, and integrated resource planning for Louisiana Power & Lights and New Orleans Public Service, Inc.



- 1996 **New Orleans City Council** Docket Nos. UD-92-2A, UD-92-2B, and UD-95-1. Rates, charges, and integrated resource planning for Louisiana Power & Lights and New Orleans Public Service, Inc.; Alliance for Affordable Energy. April, 1996.
- Prudence of utilities' IRP decisions; costs of utilities' failure to follow City Council directives; possible cost disallowances and penalties; survey of penalties for similar failures in other jurisdictions.
- 1998 **Massachusetts Department of Telecommunications and Energy** Docket No. 97-111, Commonwealth Energy proposed restructuring; Cape Cod Light Compact. Joint testimony with Paul Chernick, January, 1998.
- Critique of proposed restructuring plan filed to satisfy requirements of the electric-utility restructuring act of 1997. Failure of the plan to foster competition and promote the public interest.
- Massachusetts Department of Telecommunications and Energy** Docket No. 97-120, Western Massachusetts Electric Company proposed restructuring; Massachusetts Attorney General. Joint testimony with Paul Chernick, October, 1998. Joint surrebuttal with Paul Chernick, January, 1999.
- Market value of the three Millstone nuclear units under varying assumptions of plant performance and market prices. Independent forecast of wholesale market prices. Value of Pilgrim and TMI-1 asset sales.
- 1999 **Maryland PSC** Case No. 8795, Delmarva Power & Light comprehensive restructuring agreement, Maryland Office of People's Counsel. July 1999.
- Support of proposed comprehensive restructuring settlement agreement
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- Support of proposed comprehensive restructuring settlement agreement
- Maryland PSC** Case No. 8797, comprehensive restructuring agreement for Potomac Edison Company, Maryland Office of People's Counsel. October 1999.
- Support of proposed comprehensive restructuring settlement agreement
- Connecticut DPUC** Docket No. 99-03-35, United Illuminating standard offer, Connecticut Office of Consumer Counsel. November 1999.
- Reasonableness of proposed revisions to standard-offer-supply energy costs. Implications of revisions for other elements of proposed settlement.
- 2000 **U.S. FERC** Docket No. RT01-02-000, Order No. 2000 compliance filing, Joint Consumer Advocates intervenors. Affidavit, November 2000.

Evaluation of innovative rate proposal by PJM transmission owners.

2001 **Maryland PSC** Case No. 8852, Charges for electricity-supplier services for Potomac Electric Power Company, Maryland Office of People's Counsel. March 2001.

Reasonableness of proposed fees for electricity-supplier services.

**Maryland PSC** Case No. 8890, Merger of Potomac Electric Power Company and Delmarva Power and Light Company, Maryland Office of People's Counsel. September 2001; surrebuttal, October 2001. In support of settlement: Supplemental, December 2001; rejoinder, January 2002.

Costs and benefits to ratepayers. Assessment of public interest.

**Maryland PSC** Case No. 8796, Potomac Electric Power Company stranded costs and rates, Maryland Office of People's Counsel. December 2001; surrebuttal, February 2002.

Allocation of benefits from sale of generation assets and power-purchase contracts.

2002 **Maryland PSC** Case No. 8908, Maryland electric utilities' standard offer and supply procurement, Maryland Office of People's Counsel. Direct, November 2002; Rebuttal December 2002.

Benefits of proposed settlement to ratepayers. Standard-offer service. Procurement of supply.

2003 **Maryland PSC** Case No. 8980, adequacy of capacity in restructured electricity markets; Maryland Office of People's Counsel. Direct, December 2003; Reply December 2003.

Purpose of capacity-adequacy requirements. PJM capacity rules and practices. Implications of various restructuring proposals for system reliability.

2004 **Maryland PSC** Case No. 8995, Potomac Electric Power Company recovery of generation-related uncollectibles; Maryland Office of People's Counsel. Direct, March 2004; Supplemental March 2004, Surrebuttal April 2004.

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Calculation and allocation of costs. Effect on administrative charge pursuant to settlement.

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Reasonableness and risks of resource-procurement plan.

2005 **FERC** Docket No. ER05-428-000, revisions to ICAP demand curves; City of New York. Statement, March 2005.

Net-revenue offset to cost of new capacity. Winter-summer adjustment factor. Market power and in-City ICAP price trends.

**FERC** Docket No. PL05-7-000, capacity markets in PJM; Maryland Office of People’s Counsel. Statement, June 2005.

Inefficiencies and risks associated with use of administratively determined demand curve. Incompatibility of four-year procurement plan with Maryland standard-offer service.

**FERC** Dockets Nos. ER05-1410-000 & EL05-148-000, proposed market-clearing mechanism for capacity markets in PJM; Coalition of Consumers for Reliability, October 2005.

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2006 **MD PUC** Case No. 9052, Baltimore Gas & Electric rates and market-transition plan; Maryland Office of People’s Counsel, February 2006.

Transition to market-based residential rates. Price volatility, bill complexity, and cost-deferral mechanisms.

**MD PUC** Case No. 9056, default service for commercial and industrial customers; Maryland Office of People’s Counsel, April 2006.

Assessment of proposals to modify default service for commercial and industrial customers.

## **ATTACHMENT 1**

1. Response to Staff Data Request No. 1, Item No. 81.
2. Response to Staff Data Request No. 1, Item No. 51.
3. Response to Staff Data Request No. 1, Item No. 71.
4. Response to OPC Data Request No. 5, Item No. 7.
5. Response to Staff Data Request No. 1, Item No. 73.
6. Response to OPC Data Request No. 5, Item No. 8.
7. Response to Staff Data Request No. 1, Item No. 64.
8. Response to OPC Data Request No. 5, Item No. 1.
9. Response to OPC Data Request No. 5, Item No. 4.
10. Response to OPC Data Request No. 5, Item No. 2.