



**BEFORE THE KENTUCKY STATE BOARD
ON ELECTRICITY GENERATION AND TRANSMISSION SITING**

REBUTTAL TESTIMONY OF DR. GLENN D. MEYERS

**ADDRESSING THE TESTIMONY OF MR. MICK DURHAM
IN
CASE NO. 2002-0015**

FILED OCTOBER 13, 2003

1 Q. Dr. Meyers, please describe your background and experience in summary terms,
2 especially as they relate to the subject of your testimony in this proceeding.

3 A. I am a consulting economist specializing in the application of economic/financial theory
4 and statistical procedure to issues of corporate planning, public policy, and industry regulation.
5 Much of my work over the past thirty years has consisted of providing advice to business and
6 government on issues of energy sector regulation and restructure, and expert testimony on related
7 matters. Both within the energy sector and outside it, I have evaluated the economic impact of
8 proposed and/or existing business investments, as well as the laws and regulations governing
9 them. Such evaluations have often addressed environmental impacts, as well.

10 By way of example, I have advised the Republic of Turkey on the restructure of its
11 markets for electricity and natural gas, in the process assisting in the drafting of its foundation
12 laws for electric, natural gas and petroleum markets and the establishment of independent
13 regulatory authorities for those markets, as well as overseeing valuation and environmental and
14 other due diligence analyses of four of that country's largest electric generating facilities. Both
15 that work in Turkey and other work I performed in Israel addressed, among other things,
16 government policy with regard to independent power projects, and related considerations of
17 environmental quality, economic development, and industry competitiveness.

18 Here in the United States, I have assisted major energy companies and utilities, as well as
19 the Government of the State of New Jersey, in evaluating the impacts of changing energy sector
20 policy on company and industry performance, and in resolving commercial disputes originating
21 from changed regulation and market structure.

22 I received my Ph.D. in Economics, with Honors, from Columbia University, where I was
23 a Herbert H. Lehman Fellow. I received my Bachelor's Degree in Economics, *cum laude*, from
24 Columbia College, and am a member of the American Economic Association.

25 My full curriculum vita is appended to this testimony.

1 Q. What is the purpose of your testimony?

2 A. To critically assess what Mr. Mick Durham asserts to be the “negative economic
3 consequences” of possible “environmental impacts” of the electric generating facility that
4 Thoroughbred Generating Company seeks to build in Muhlenberg County. [Durham at 2.] Mr.
5 Durham faults Thoroughbred’s application for not addressing these alleged “negative economic
6 consequences.” [Durham at 2 and 10-11.]

7

8 Q. What specifically does Mr. Durham mean by the term, “negative economic
9 consequences”?

10 A. He appears to use the term to describe a possible contraction in local investment
11 opportunity, and/or increase in environmental compliance costs, for firms other than
12 Thoroughbred, as a result of a narrowed margin between actual and maximum permitted air
13 pollution levels after the Thoroughbred facilities begin operation. [Durham at 5-6 and 8-12.
14 Possible adverse impacts on Green River water flow and quality are also cited.] For example, he
15 contends that, “... Thoroughbred’s application should have addressed the negative consequences
16 regarding limitations on future development caused by the Plant. Increment [i.e., pollution right]
17 consumption of any amount by Thoroughbred will take away increment [i.e., license to pollute]
18 that could be used for future development in the area.” [Durham at 10.]

19

20 Q. Have you evaluated the alleged “environmental impacts” of the Thoroughbred facility
21 cited by Mr. Durham as the cause of these “negative economic consequences”?

22 A. No, I have not. It is my understanding that other witnesses will address that subject. For
23 the purposes of my testimony, I took Mr. Durham’s representations at face value.

24

1 Q. What if Mr. Durham exaggerates the adverse environmental impacts of the proposed
2 facility, and/or their likelihood?

3 A. Any such exaggeration would correspondingly reduce the alleged “negative economic
4 consequences” to which he refers.

5

6 Q. Is that fact significant, in your view?

7 A. Actually, it is not.

8

9 Q. Why not?

10 A. Because the very concept of “negative economic consequences,” as Mr. Durham defines
11 it, has neither a basis in economic science nor a place in proceedings such as this, in my view.
12 The term is really just a euphemism for “possible harm to a competitor,” and as such, it confuses
13 the interests of that competitor with those of the community as a whole. It is a fundamental tenet
14 of regulatory economics that these two sets of interests need not be in harmony. In fact, that is
15 one of the principle reasons why regulation exists in the first place.

16

17 Q. Does Mr. Durham’s concept of “negative economic consequences” confuse any other
18 ideas or considerations that are better kept separate?

19 A. Yes. The concept also confuses the possible social cost of a *project* with the possible
20 social cost of a *policy*.

21

22 Q. Would you please explain?

23 A. Limits on air pollution and water withdrawal and contamination are intended to balance
24 the community’s interest in industrial development with its interest in preserving the
25 environment, and related public health concerns. *Some* adverse impact on industrial development

1 is assumed, sanctioned, and inherent in public policy in this area. That adverse impact, moreover,
2 is certainly not the outcome of actions by Thoroughbred, either actual or proposed.

3

4 Q. What does this imply?

5 A. It implies that Mr. Durham's "negative economic consequences," insofar as they may be
6 based in fact, are more accurately attributed to past decisions of government than to current
7 proposals by Thoroughbred. And the legislative and regulatory proceedings that produced
8 current environmental standards were the proceedings in which such "negative consequences," if
9 any, should have been addressed.

10

11 Q. Suppose, for argument's sake, that I disagree with that conclusion, and insist that the
12 "negative consequences" Mr. Durham describes must be considered in this proceeding. How –
13 and how deeply – would you recommend that they be considered?

14 A. First, I would recommend that Mr. Durham's concept of "negative consequences" be
15 reformulated, to make more sense from the perspective of regulatory economics.

16

17 Q. Why?

18 A. Because, as I suggested earlier, the fact – or in this case, conjecture -- that a regulatory
19 decision has "negative consequences" for a particular party of interest (or group of them) hardly
20 means that it must also have "negative consequences" for the community as a whole. A more
21 economically meaningful definition of "negative consequences" for use in a proceeding of this
22 nature would recognize this distinction.

23

1 Q. What might one such definition be?

2 A. An investment project might be considered to have “negative economic consequences” if
3 it was determined with reasonable certainty to foreclose the opportunity for other investments that
4 would yield greater benefits, in terms of employment and income.

5

6 Q. Does Mr. Durham present any evidence that the Thoroughbred facility, if constructed,
7 would have such an effect?

8 A. No, he does not.

9

10 Q. Based on the information that you have examined, is it reasonable to assume that the
11 Thoroughbred facility might have such an effect?

12 A. No, it is not.

13

14 Q. Why not?

15 A. Among other reasons, because the attractiveness of Muhlenberg County and its environs
16 as a location for industry appears to be very limited. Thus, the likelihood that the area will be
17 seriously considered as a site for another investment project of a scale comparable to the
18 Thoroughbred facility – *irrespective* of whether such a project has significant environmental
19 impact – appears to be negligible.

20

21 Q. What is the basis for your conclusion that the attractiveness of Muhlenberg County and
22 its environs as a location for industry appears to be very limited?

23 A. That conclusion is based both on the economic performance of the area and opinions
24 expressed by local government officials.

25

1 Q. What does Muhlenberg County's economic performance indicate?

2 A. That the County has failed to attract any significant investment in new business facilities
3 over the past ten years (apart from those proposed by Thoroughbred), and as a result is essentially
4 stagnant, in economic terms.

5 As shown in Exhibit GM-1, appended, between 1993 and 2000, the number of business
6 establishments in the County actually declined.

7 As shown in Exhibit GM-2, appended, between 1990 and 2000, the County's labor force
8 barely grew.

9 As shown in Exhibit GM-3, appended, the County's unemployment rate has consistently
10 been well above the national average.

11 As shown in Exhibit GM-4, appended, from 1993 through 2003, total investment in new
12 or enlarged business facilities has amounted to only \$27.5 million – substantially less than the
13 \$37.0 million allocated to the County's public schools in one of those years (1999/2000) alone.
14 [Source: National Center for education Statistics.] Moreover, the rate of investment has been
15 declining (i.e., twenty-three projects from 1993 and 1998, but only seven from 1999 through
16 2003, to date).

17 The roughly thirteen hundred new jobs generated by all the aforesaid investments – made
18 up chiefly of enhancements to existing facilities – employ only about ten percent of the County's
19 labor force, while the County's unemployment rate remains chronically high.

20

21 Q. You also referred to the opinions of local officials, as supporting your conclusion that
22 Muhlenberg County is not an attractive site for industry, generally speaking. Can you cite an
23 example?

24 A. Muhlenberg County Judge-Executive Rodney Kirtley has noted that, "It's been difficult
25 attracting ... industries [other than coal mining] to the county. That's in part because the county

1 lies more than 100 miles from a major airport, and because the educational levels of its work
2 force have not been competitive." [*The Courier-Journal* (Louisville, KY), "Peabody's Return;
3 Energy Giant's Plans for Power Plant in Muhlenberg Welcomed by County, But
4 Environmentalists Worried," February 10, 2002, page 1A.]

5
6 Q. Earlier (page 5) you were asked for your opinion as to "how – and how deeply" Mr.
7 Durham's alleged "negative economic consequences" should be considered in this proceeding, on
8 the assumption that they should be considered at all. Would you please return to that question.

9 A. Certainly. In defining "negative economic consequences" in what I consider to be a more
10 meaningful way (i.e., will a better project be lost, if Thoroughbred gets built?), I presented my
11 view as to *how* such possible "negative consequences" should be considered, if one is required to
12 consider them at all, in this forum.

13 In presenting evidence suggesting that the hypothesized "better project" is speculative if
14 not plainly implausible, I believe I have made a case that one should not be required to invest a
15 great deal of time or money in forecasting "negative consequences" in this proceeding. However,
16 that view is also supported by an entirely separate consideration, which I have so far not even
17 touched upon.

18

19 Q. What consideration is that?

20 A. Impact on competition in the supply of electricity in the region.

21

22 Q. How does that factor play a role?

23 A. An important "*positive* economic consequence" of the Thoroughbred facility not included
24 in the tally of benefits presented in KPMG's economic impact analysis ["Thoroughbred Energy
25 Campus: An Economic Analysis of Project Benefits for Kentucky," February 2002], and certainly

1 not addressed by Mr. Durham, is the favorable impact of those facilities on competition in the
2 regional generation market. Based upon on a substantial amount of past research on this subject,
3 as well as the local economic data cited above and the concentration of ownership of electric
4 generating facilities supplying the region, I believe that the benefits of such increased competition
5 are likely to outweigh any “negative economic consequences” of the kind Mr. Durham forecasts.

6

7 Q. How will the pro-competitive impact of the Thoroughbred facility benefit the regional
8 economy?

9 A. Through lower and more stable prices for electricity, and increased reliability of electric
10 service. These benefits, in turn, will stimulate the regional economy in ways not reflected in the
11 input/output model utilized in the KPMG benefits study. In this regard, that model is overly
12 conservative in its assessment of project benefits.

13

14 Q. If we were to take as our point of reference a geographic area substantially larger than
15 Muhlenberg County, would this materially affect your conclusions as to the significance of the
16 alleged “negative economic consequences” cited by Mr. Durham?

17 A. No, it would not.

18

19 Q. Does this conclude your testimony?

20 A. Yes, it does.

VERIFICATION

STATE OF NEW YORK)

COUNTY OF NEW YORK)

SS:

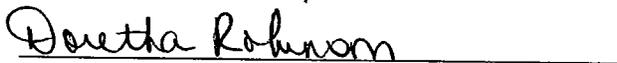
The undersigned, Dr. Glenn D. Meyers, being duly sworn, deposes and says that he is Director of the Forensic, Litigation and Regulatory Group at KPMG LLP, that he has personal knowledge of the matters set forth in the foregoing rebuttal testimony and exhibits, and the answers contained therein are true and correct to the best of his information, knowledge and belief.



DR. GLENN D. MEYERS

Subscribed and sworn to before me, a Notary Public in and before said County and State this 10th day of October, 2003.

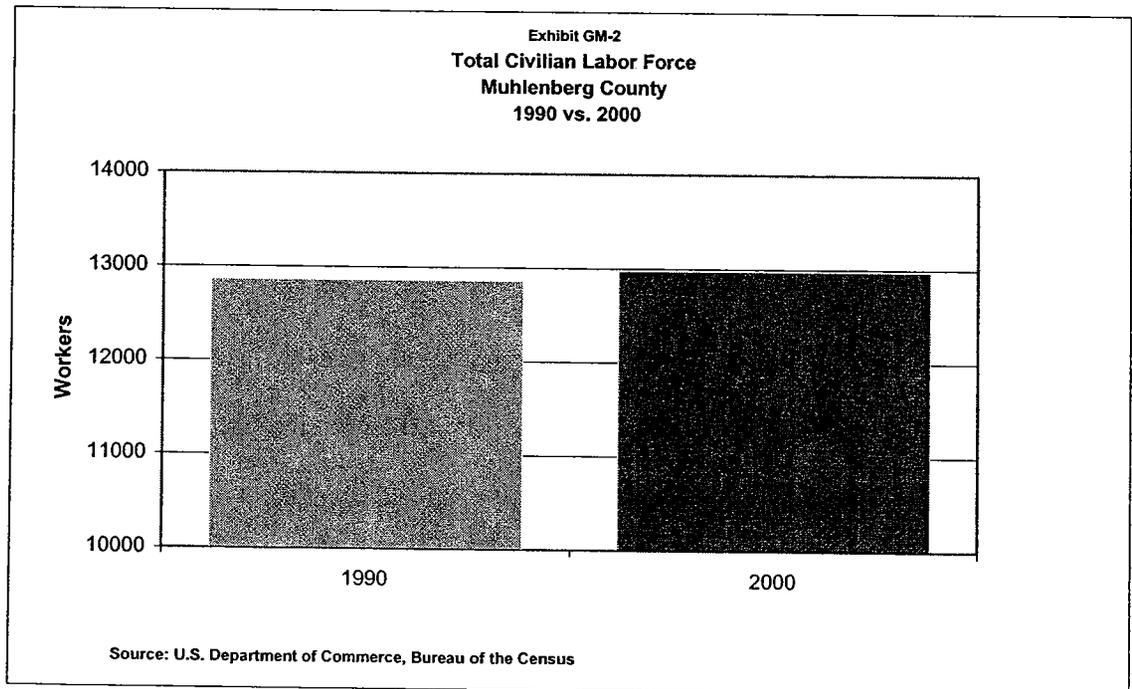
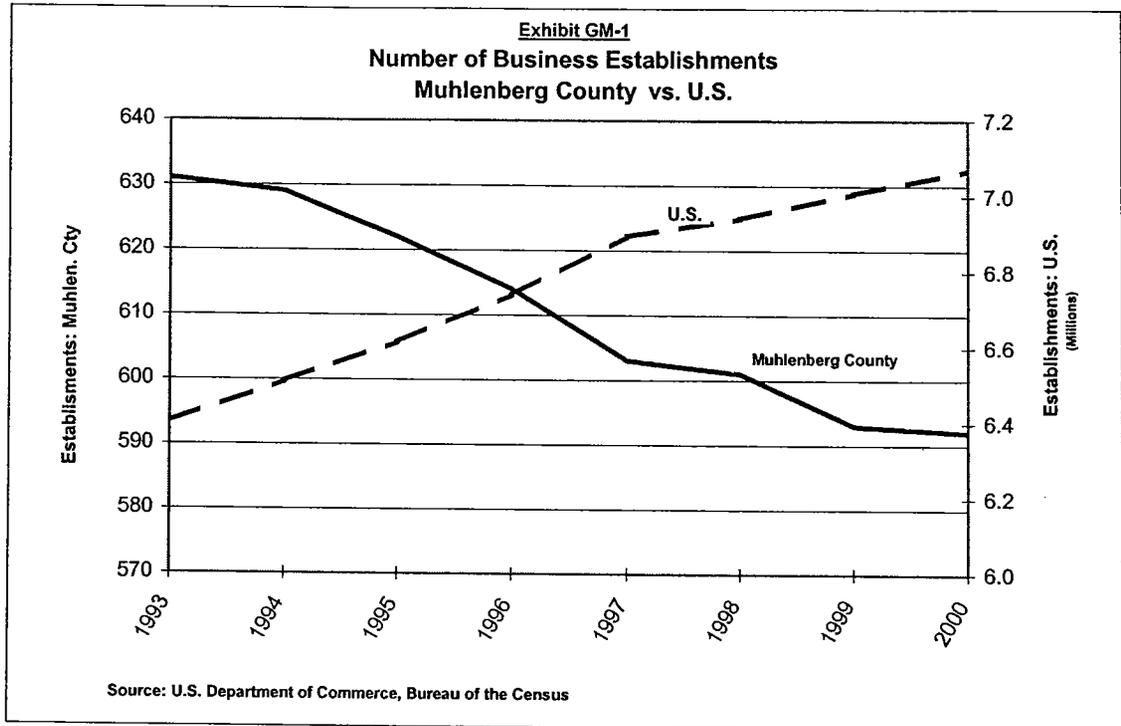
My commission expires: June 14, 2007



Notary Public

DORETHA ROBINSON
NOTARY PUBLIC, State of New York
No. 01806026280
Qualified to Exercise
Certificate Held in New York County
Commission Expires

EXHIBITS



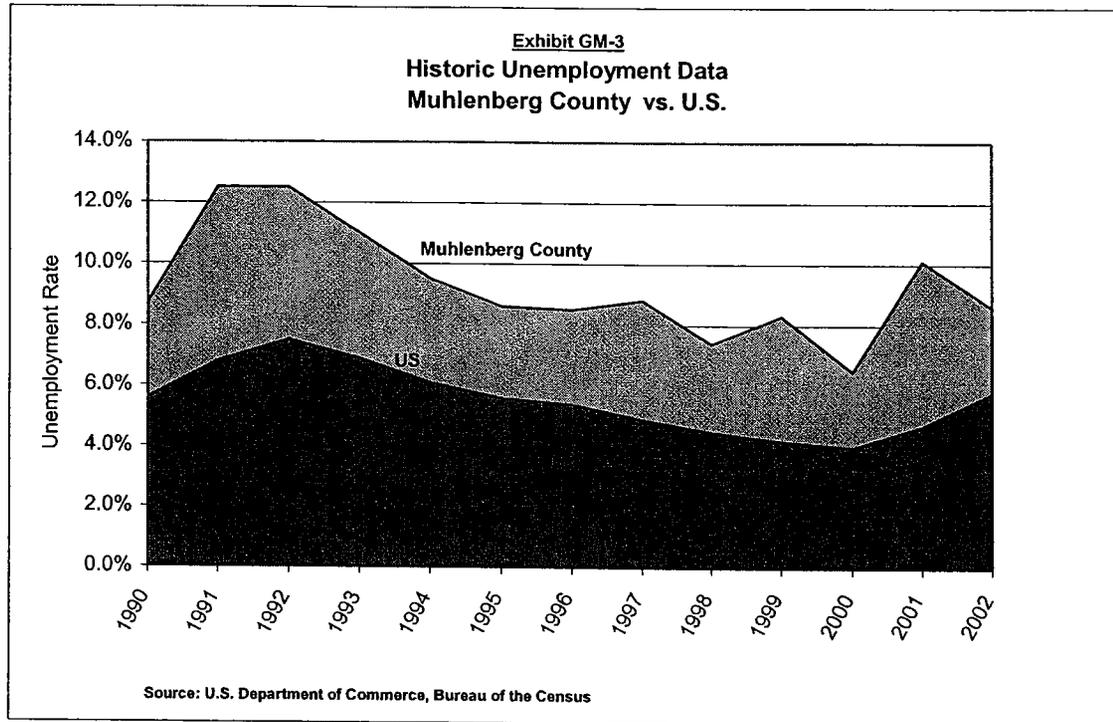


Exhibit GM-4
Muhlenberg County:
Facility Locations and Expansions

	Number of Projects		Total Investment	Employment	
	1993-1998	1999-2003		Begin	End
New Manufacturing*	7	1	\$6,016,938	729	812
Existing Manufacturing	16	5	\$20,486,800	219	239
New Support/Service Firms	0	1	\$1,000,000	100	100
Total	23	7	\$27,503,738	1158	1261

*Not including proposed Thoroughbred Facility

Source: Kentucky Cabinet for Economic Development

CURRICULUM VITAE



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Dr. Meyers is an economist specializing in the application of economic/financial theory and statistical analysis to contested issues in commercial disputes, and regulatory policy formulation and enforcement. Since 1974, when he co-authored the first major study of performance-based regulation (PBR) to be used as a basis for policy by the United States Federal Communications Commission, he has advised both public and private sector clients on energy and telecommunications sector planning and regulation. Much of this work has focused on issues of industry structure and performance, including institutional arrangements for, and risk management in, energy and transmission rights trading, and appropriate recovery of costs for regulated transmission and distribution companies, as well as independent power producers operating under private or government contract. As an advisor to the governments of Turkey and Israel, as well as several global energy companies, Dr. Meyers has assessed virtually all aspects of the restructure and/or privatization of energy sector enterprises in over a dozen countries, and has helped formulate law and policy in these areas. He has also contributed to the resolution of related commercial disputes, both as an expert witness and in the negotiation of policy by government and industry representatives.

Across a broader spectrum of industry, Dr. Meyers has authored studies and submitted expert testimony on a wide range of questions arising in: (a) the regulation of competition under antitrust, patent, and labor law; (b) determination of the economic impact – including damages to affected enterprises – of violations of law in the foregoing categories; and (c) international trade and business disputes. His work in the first of these areas includes economic analysis of contested markets in landmark antitrust cases (*Grinnell, Armstrong, Matsushita*, and the international uranium cartel cases), and preparation of the economic brief submitted by Airbus S.A.S. to the United States Federal Trade Commission and the European Union in regard to the Boeing/McDonnell-Douglas merger.

Dr. Meyers served as Adjunct Professor of Economics at Columbia University. He received his Ph.D. in Economics, with Honors, from Columbia University, where he was a Herbert H. Lehman Fellow (concentration in the subjects of Industrial Organization and International Trade and Finance). He received his Bachelor's Degree in Economics, *cum laude*, from Columbia College, and is a member of the American Economic Association.

Selected Clients

Republic of Turkey	Gulf Oil Corporation	The Seagram Company, Ltd.
State of Israel	Phillips Petroleum Company	Colt's Manufacturing Co., Inc.
Commonwealth of Puerto Rico	Exxon Mobil Corporation	AMAX Realty Development
State of Illinois	Royal Dutch/Shell Group	Hitachi Corporation
State of New Jersey	Tenneco, Inc.	Dow Chemical Company
Unicom Corporation	Airbus, S.A.S.	Johnson Development Group, Inc.
PECO Energy Company	GAF Corporation	B.F. Goodrich Company
ITT-Grinnell Corporation	The Proctor & Gamble Company	Johnson & Johnson
El Paso Corporation	Armstrong World Industries	U.S. Chamber of Commerce
Public Service Enterprise Group	The Hertz Corporation	U.S. Business Roundtable

Energy & Telecommunications Sector
Regulation and Dispute Resolution:
Sample Studies and Engagements

- ***Comprehensive Analysis of the Financial and Credit-Risk Impacts of Allegedly Fraudulent Accounting Practices Ascribed to a Major Energy Sector Enterprise (2003 – Client Confidential).*** This analysis, undertaken for one of the country's largest electric and gas utilities in the context of a contract dispute, addressed the effects of a broad range of allegedly improper accounting practices on the counter-party's financial condition and credit standing.
- ***Critical Evaluation of Regulatory Policy and Internal Controls Governing The Electric Energy and Transmission Contract Trading Activities of A Major International Petroleum Company (2002 – Client Confidential).*** In this ongoing engagement, Dr. Meyers is assessing the impact of changes in energy and transmission market design and operation on the performance of the client's energy trading desk, as well as risk management policies and practices impacting trading profit.
- ***Habibullah Coastal Power (Private) Power Company v. Fiat Avio, S.P.A., Arbitration before the United Nations Commission on International Trade Law (2002).*** Critical analysis of testimony presented by Fiat seeking retroactive award of deferred charges for the construction of an electric generating plant in Pakistan. Entailed appraisal of key project financing issues and protocols, changing economic and political circumstances, and related claims for liquidated damages due to construction delays. *Client: El Paso Corporation (project sponsor).*
- ***Reports of the Neutral Fact-Finder on the Determination of Market Values for Electric Power and Energy, State of Illinois, 1998, 1999, and 2000.*** As advisor to the State of Illinois, calculated competitive prices for electricity in that State, as the market transitioned to a fully competitive one for all consumers. Included assessment of cost unbundling methods and the accounting data upon which they rely, as well as the compilation and analysis of several million hourly price observations in each year at issue.
- ***New Jersey Board of Regulatory Commissioners: Various Dockets, 1972-1993:*** Both historical and forward-looking analyses of electric and gas utility cost of service, including: (a) partial- and total factor productivity trends and their causes; (b) fuel costs and fuel cost adjustment factors; (c) more comprehensive rate adjustment clauses, based on costs in all major categories; and (d) employee compensation levels and workforce size and structure. Also conducted electricity and gas demand forecasts, and a detailed evaluation of telecommunications industry deregulation.

Energy Sector Antitrust

- ***Evaluation of the Structure and Competitive Performance of the United States Petroleum Industry.*** Study undertaken for Mobil Corporation, in response to an inquiry by the Federal Trade Commission. Focused on the economic causes and effects of vertical integration, including efficiencies in production and distribution and related pricing practices.
- ***Tenneco, Inc. Acting by and through its Division, Tennessee Gas Pipeline Company versus J. Ray McDermott & Company, et al., S.D. Texas, 1979.*** Co-authored study of bidding practices for the laying of undersea gas pipeline, as part of an assessment of antitrust liability.
- ***General Atomic versus Ranchers HNG, D. New Mexico, 1976, Case No. 2-76-00598*** (part of the litigation collectively known as the "Worldwide Uranium Cartel Case.") Evaluated economic issues related to antitrust liability in the marketing of uranium, including determinants of domestic and international uranium prices.

- *Barry Wright Corporation versus Pacific Scientific Company*, 555 F. Supp. 1264 (D. Massachusetts, 1983). In behalf of defendant, co-authored study of economic aspects of antitrust liability in the sale of shock suppressors for nuclear power plants.

Publications

- *“Stranded Utilities: How Demographics, Not Management, Caused High Costs and Rates”* (with Buckner Wallingford, II and Horace J. DePodwin), 135 *Public Utilities Fortnightly* 11 (1997). This article reports the results of an econometric study, conducted by the authors, which found that nearly all of the variation in electricity service rates among the fifty states can be explained by the joint interaction of three factors: (a) customer density; (b) regional construction costs; and (c) the percentage of generating capacity accounted for by nuclear facilities.
- *“Electric Utility Stranded Costs and Nuclear Responsibilities”* (with Horace J. DePodwin), *Proceedings of the EUC Conference on Stranded Cost Determination and Securitization*, Denver, Colorado, December 1997. Analyzed the effects of financial pressures on nuclear plant maintenance, the divergence between the private and social costs of compromised management of radioactive material, and possible remedies.
- *“Economic Theory and Application in Utility Ratemaking,”* 117 *Public Utilities Fortnightly* 13 (1986). This article explored the benefits and drawbacks of the use of partial and total factor productivity growth projections as a basis for adjustments to utility revenue requirements under rate base regulation, and issues in the measurement of elasticity of demand for utility services.
- *Regulation of Utility Performance: A Proposed Alternative to Rate Base Regulation* (with Horace J. DePodwin and Barbara Epstein), FCC Contract FCC-0071, July 1974. Devised a PBR strategy to promote efficiency and minimize distortions in capital investment, an approach which helped form the basis for subsequent FCC policy.

Energy Sector Structural & Regulatory Reform: Turkey and Israel:

- In 1999/2000, Dr. Meyers directed the work of consultancy teams from Deloitte & Touche LLP, Duke Energy and the law firm of Dickstein, Shapiro, Morin & Oshinsky, in regard to the reform of markets for electricity and natural gas in Turkey. On behalf of the Ministry of Energy and Natural Resources, Republic of Turkey, the project consortium: (a) assisted in the drafting of enabling legislation for the restructure and privatization of electricity and natural gas markets, and the design of regulatory authorities for both markets; (b) prepared a comprehensive study of the structure and operation of a liberalized natural gas market; (c) assessed Turkey’s hydroelectric power industry development model; (d) conducted technical evaluations, environmental impact assessments, and valuations of four of the country’s primary electric generating facilities; and (f) prepared all documentation required for the transfer of operating rights for those facilities.
- In 2001, in addition to advising the World Bank on energy sector and regulatory reform in Turkey, Dr. Meyers led a team of twenty energy industry experts in various disciplines charged with advising the Government of Israel on the restructure and privatization of that country’s electricity industry, and improving regulatory oversight of its development and operation. This assignment included assistance to the Government in: (a) its selection of an optimal model for the market, including electricity trading institutions and protocols, and appropriate terms and conditions for IPPs; (b) formulating strategy for implementation of the market model, including possible unbundling and privatization of the Israel Electric Corporation, appropriate rate regulation of its transmission and distribution company spin-offs, and related issues of cost allocation and classification; and (c) identification and resolution of parallel issues of regulatory, social, environmental, and national security policy. Work entailed preparation of a four-hundred page study of electric sector restructure and privatization in the United States, the United Kingdom, the Republic of Ireland, Norway, the Netherlands, Australia, Singapore, Spain, Portugal, and Turkey.



Economic Development & International Trade Issues

- As advisor to the Governor's Committee on Labor Policy, Commonwealth of Puerto Rico (CPR), analyzed the *employment effects of privatization* of government enterprises; devised appropriate transition strategies; and developed measures to enhance the international competitiveness of Puerto Rico's labor force.
- As advisor to the Department of Agriculture, CPR, assessed the *competitiveness of Puerto Rico's agricultural exports*, and formulated more effective marketing strategies. Study also addressed potential impact of agricultural exports on the Island's economic development.
- In behalf of the Seagram Company, evaluated the *impact of the Caribbean Basin Initiative on the international competitiveness of Puerto Rican rum*. Study focused on comparative production cost advantages and their interaction with reduced trade barriers.
- As advisor to the Ministry of Trade and Industry of the Government of Japan, performed comprehensive *comparative study of product distribution systems in the United States and Japan*, including recommendations for the streamlining of distribution in Japan to reduce trade barriers and lower costs to consumers.
- For Amax Corporation, evaluated the *economic feasibility and environmental impact of the development of one of largest product distribution facilities in the United States*, as well as adjacent docks and marinas and other commercial facilities.
- *Investigation of the Costs and Export Marketing Practices of the Mexican Winter Vegetable Industry, and Their Impact on Market Shares and Prices in the United States*. Resulting study served as basis for testimony before the Sub-Committee on Agriculture, Nutrition and Forestry of the United States Senate, and led to modification of trade policy in regard to these products. *Clients: Various Florida growers' associations.*
- *Investigations of the Costs and Export Marketing Practices of Manufacturers of Ceramic Tile in Japan, Korea and the Philippines*. Included preparation of testimony in antidumping proceedings before the United States International Trade Commission, and collaboration with staff of the Ministry of Trade and Industry of the Government of Japan, in enforcing a program of voluntary export restraints. *Client: Ceramic Tile Manufacturers of the United States.*
- *Economic Growth and Social Well-Being in the State of New Jersey: Goals and Strategies, 1989-1995*, Report Prepared for the New Jersey Business Roundtable. This study addressed, *inter alia*, economic aspects of alternative policies for environmental management, as well as the State's Development and Redevelopment Plan.
- *Master plan for port development over twenty years*, including merchandise flows, trade routes, revenue forecasts and investment alternatives. *Client: Port of Galveston, Texas.*
- *Multi-Industry, Multi-Country Evaluation of Restrictive Work Practices*: Undertaken for the Business Roundtable of the United States, this study addressed the causes and economic effects of restrictive work practices; their relative incidence worldwide; and means of reducing their incidence through improved labor-management relations. The study entailed on-site evaluation of operations of the basic steel, residential and industrial construction, automobile, heavy electrical equipment, and pharmaceutical industries of the United States, France, Japan and Puerto Rico.



Antitrust Liability & Damages Outside the Energy Sector

- **Boeing/McDonnell-Douglas Merger.** Prepared brief submitted by Airbus Industrie to the Federal Trade Commission and the European Union on the competitive impact of the merger and related marketing strategies adopted by Boeing, such as long-term, single-source contracts.
- **Elliot Fineman: The Industry Network System, Inc. versus Armstrong World Industries, Inc.,** 980 F.2d 171 (3d. Cir. 1992). Co-authored studies on relevant market and damages in relation to claims that Armstrong violated the Sherman Act in allegedly seeking to exclude plaintiff from the “market for video magazines for floor covering retailers.”
- **Indian Coffee Corp., et al. versus The Procter & Gamble Company and the Folger Coffee Company,** F. 3d, 1984, W.D. Pennsylvania, 1976). Contributed to study of economic aspects of antitrust liability, and related damages, in the marketing of coffee.
- **Cool Wind Ventilation Corp. v. Sheet Metal Workers International Association, Local Union No. 28, et al,** United States District Court, Eastern District of New York: Assessed liability and damages in this labor antitrust case, involving alleged anticompetitive activities by New York building trades unions in the market for sheet metal duct fabrication and installation.
- **Johnson Development Group, Inc., et al. versus Carpenters Local Union No. 1578,** D. New Jersey, Case No. 89-566: Testified on the economic causes and effects of a boycott of homebuilders by suppliers of concrete, undertaken in the context of a labor dispute.

Liability and Damages in Intellectual Property Litigation

- **Colt's Manufacturing Company versus the United States Department of Defense, and Certain Defense Industry Manufacturers.** Assessed damages to Colt's resulting from lapses in the enforcement of trade secret provisions in its agreements with the Department of Defense, and infringement by competitors.
- **Becton, Dickinson and Company versus Critikon, Inc.** [subsidiary of Johnson & Johnson], Arbitration No. 13 133 00388 93, 1995. Co-authored study on damages due to infringement of patents for medical devices, including assessment of the contribution to profit of several interrelated innovations.
- **Ole K. Nilssen versus Motorola, Inc. and Motorola Lighting, Inc.,** N.D. Illinois, E.D., 1997. Co-authored study on liability and damages related to alleged theft of trade secrets for electronic lighting products.
- **Goodyear Aerospace Corporation versus The B.F. Goodrich Company,** S.D. Ohio, 1985. Contributed to study on commercial success and value of patents for aircraft brakes.
- **E.I. DuPont Nemours & Company versus Phillips Petroleum Company, et al.** (D. Del., 1981). Contributed to study on commercial success of a patent for high-density polyethylene.

Education:

Ph.D., Economics, with Honors, Columbia University, 1972.

B.A., Economics, *cum laude*, Columbia College, 1968.



Employment Record:

Director, Forensic, Litigation & Regulatory Group KPMG LLP	2002 -
Director, Dispute Consulting Deloitte & Touche LLP (D&T)	2001 - 2002
Project Director, Energy Group, D&T	1998 - 2001
Senior Manager, Economic Services, D&T	1998 - 2001
Principal, Economic Studies, Inc.	1992 - 1998
Various Positions, Economic Studies, Inc.	1972 - 1992

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the forgoing was sent by United States First Class Mail, sufficient postage prepaid, to the following this the 13th day of October, 2003.

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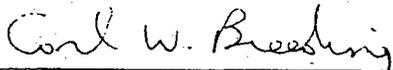
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