

Jonathan A. Lesser, Ph.D.

Partner

Summary of experience

Dr. Jonathan Lesser is a Partner with Bates White, LLC, with more than 20 years of experience working for electric utilities, government, and as an economic consultant. He has addressed critical economic and regulatory issues affecting the energy industry, including gas and electric utility structure and operations, mergers and acquisitions, cost allocation and rate design, resource investment decision strategies, cost of capital, depreciation, risk management, incentive regulation, economic impact studies, and general regulatory policy.

Dr. Lesser has designed complex models to value nuclear, fossil fuel, and renewable generating assets, as well as long-term power contracts in the presence of market, regulatory, and environmental uncertainty. He has also actively participated in negotiations for qualifying facilities under PURPA, relicensing of hydroelectric plants, and electric industry market design. Dr. Lesser has testified in Alaska, Arkansas, Connecticut, Illinois, Maryland, New Jersey, Ohio, Oklahoma, Rhode Island, and Vermont; before the Federal Energy Regulatory Commission (FERC); before regulators in Mexico and Puerto Rico; in commercial litigation cases in Arizona, Vermont, and Washington; and before legislative committees in Connecticut, Maryland, Texas, Vermont, and Washington. He is most recently the coauthor of *Fundamentals of Energy Regulation*, published in 2007 by Public Utilities Reports, Inc., numerous academic and trade press articles, and a contributing columnist and Editorial Board member for *Natural Gas & Electricity*.

Areas of expertise

- Commercial damages estimation
- Cost of capital, return on equity, and capital structure
- Cost of service, depreciation, cost allocation, and rate design
- Economic impact analysis
- Environmental strategy analysis
- Generating asset valuation
- Market power analysis
- Regulatory policy and market design
- Risk management

Selected expert testimony and reports

Empresa Eléctrica de Guatemala

- Rate proceeding before the Comisión Nacional de Energía Eléctrica
Subject: Weighted average cost of capital.

Electric Power Supply Association

- FERC proceeding (*Re: Midwest Independent Transmission System Operator, Inc.*, Docket No. ER07-1182-000)
Subject: Critique of cost-benefit analysis by MISO Independent Market Monitor concluding that permanent establishment of Broad Constrained Area mitigation was appropriate.

Constellation Energy Commodities Group, LLC.

- FERC rate proceeding regarding rate application for ancillary services by Ameren Energy (*Re: Ameren Energy Marketing Company and Ameren Energy, Inc.*, Docket Nos. ER07-169-000 and ER07-170-000)
- Subject: Analysis and testimony on appropriate “opportunity cost” rates for ancillary services, including regulation service and spinning reserve service. Case settled prior to testimony being filed.

Suiza Dairy Corporation and Vaquería Tres Monjitas, Inc.

- Rate proceeding before the Office of Milk Industry Regulatory Administration of Puerto Rico.
- Subject: Analysis and testimony on the appropriate return on equity for regulated milk processors in the Commonwealth of Puerto Rico.

DPL Inc.

- Proceeding before the Ohio Board of Tax Appeals (*DPL, Inc. and its subsidiaries v. William W. Wilkins, Tax Commissioner of Ohio*, Case No. 2004-A-1437)

Subject: Economic impacts of generation investment and qualification of electric utility investments as “manufacturing” investments for purposes of state investment tax credits.

IGI Resources, LLC and BP Canada Energy Marketing Corp.

- FERC rate proceeding regarding the rate application by Gas Transmission Northwest Corporation (Re: *Gas Transmission Northwest*, Docket No. RP06-407-000)

Subject: Natural gas supplies, economic lifetime, and depreciation rates.

ITC Midwest, LLC

- FERC rate proceeding regarding the sale of IPL Corp.’s transmission assets to ITC Midwest, LLC, and transmission rates to be established thereof (Docket Nos. EC07-89-000 and ER07-887-000)

Subject: Analysis and testimony on the appropriate return on equity and capital structure to be set for ITC Midwest, LLC.

Baltimore Gas and Electric Co.

- Maryland Public Service Commission (Case No. 9099)

Subject: Standard Offer Service pricing. Testimony focused on factors driving electric price increases since 1999, and estimates of rates under continued regulation

- Maryland Public Service Commission (Case No. 9073)

Subject: Stranded costs of generation. Testimony focused on analysis of benefits of competitive wholesale power industry.

- Maryland Public Service Commission (Case No. 9063)

Subject: Optimal structure of Maryland’s electric industry. Testimony focused on the benefits of competitive wholesale electric markets. Presented independent estimates of benefits since 1999.

Pemex-Gas y Petroquímica Básica

- Expert report in a rate proceeding. Presented analysis before the Comisión Reguladora de Energía on the appropriate return on equity.

BP Canada Marketing Corp.

- FERC rate proceeding regarding the rate application by Northern Border Pipeline Company (*Re: Northern Border Pipeline*, Docket No. RP06-072-000)
Subject: Natural gas supplies, economic lifetime, and depreciation rates.

Transmission Agency of Northern California

- FERC rate proceeding (*Re: Pacific Gas & Electric Company*, Docket No. ER05-1284-000)
Subject: Analysis of appropriate return on equity, capital structure, and overall cost of capital. Case settled prior to filing expert testimony.
- FERC rate proceeding (*Re: Pacific Gas & Electric Company*, Docket Nos. ER03-409-000, ER03-666-000)
Subject: Analysis and development of recommendation for the appropriate return on equity, capital structure, and overall cost of capital.

State of New Jersey Board of Public Utilities

- Merger application of Public Service Enterprise Group and Exelon Corporation (*I/M/O The Joint Petition Of Public Service Electric And Gas Company And Exelon Corporation For Approval Of A Change In Control Of Public Service Electric And Gas Company And Related Authorizations*, BPU Docket No. EM05020106, OAL Docket No. PUC-1874-050)
Subject: Proposed merger between Exelon Corporation and PSEG Corporation. Testimony described the structure and results of a cost-benefit analysis to determine whether the proposed merger met the state's positive benefits test, and included analysis of market power, value of changes in nuclear plant operations, and merger synergies.

Sierra Pacific Power Corp.

- FERC rate proceeding regarding the rate application by Paiute Pipeline Company (*Re Paiute Pipeline Company* Docket No. RP05-163-000)
Subject: Depreciation analysis, negative salvage, and natural gas supplies. Case settled prior to filing expert testimony.

Matanuska Electric

- Regulatory Commission of Alaska rate proceeding (*In the Matter of the Revision to Current Depreciation Rates Filed by Chugach Electric Association, Inc.*, Docket No. U-04-102)
Subject: Analysis of the reasonableness of Chugach electric's depreciation study.

Duke Energy North America, LLC

- FERC proceeding (*Re: Devon Power, LLC*, et al., Docket No. ER03-563-030)
Subject: Appropriate market design for locational installed generating capacity in the New England market to ensure system reliability.

Keyspan-Ravenswood, LLC

- FERC proceeding, *KeySpan-Ravenswood, LLC v. New York Independent System Operator, Inc.*, Docket No. EL05-17-000
Subject: Estimation of damages arising from a failure by the NYISO to accurately calculate locational installed capacity requirements in New York City during the summer of 2002.

Electric Power Supply Association

- FERC proceeding (*Re: PJM Interconnection, LLC*, Docket No. EL03-236-002)
Subject: Analysis and critique of proposed pivotal supplier tests for market power in PJM identified load pockets.

Vermont Department of Public Service

- Vermont Public Service Board Rate Proceedings
 - Concurrent proceedings: *Re: Green Mountain Power Corp.*, Dockets No. 7175 and 7176. Subject: Cost of capital and allowed return on equity under cost of service regulation, as well as under a proposed alternative regulation proposal.
 - *Re: Shoreham Telephone Company*, Docket No. 6914. Subject: Analysis and development of recommendations for the appropriate return on equity, capital structure, and overall cost of capital.

- *Re: Vermont Electric Power Company*, Docket No. 6860. Subject: Development of a least-cost transmission system investment strategy to analyze the prudence of a major high-voltage transmission system upgrade proposed by the Vermont Electric Power Company.
- *Re: Central Vermont Public Service Company*, Docket No. 6867. Subject: Analysis and development of recommendations for the appropriate return on equity, capital structure, and overall cost of capital.
- *Re: Green Mountain Power Corporation*, Docket No. 6866. Subject: Analysis and development of recommendations for the appropriate return on equity, capital structure, and overall cost of capital.

Pipeline shippers

- FERC rate proceeding (*Re: Northern Natural Gas Company*, Docket No. RP03-398-000)
Subject: Gas supply analysis to determine pipeline depreciation rates as part of an overall rate proceeding.

Arkansas Oklahoma Gas Corp.

- Oklahoma Corporation Commission rate proceeding (*Re: Arkansas Oklahoma Gas Corporation*, Docket No. 03-088)
Subject: Analysis and development of recommendations for the appropriate return on equity, capital structure, and overall cost of capital.
- Arkansas Public Service Commission rate proceedings
 - *In the Matter of the Application of Arkansas Oklahoma Gas Corporation for a General Change in Rates and Tariffs*, Docket No. 05-006-U. Subject: Analysis and development of recommendations for the appropriate return on equity, capital structure, and overall cost of capital.
 - *In the Matter of the Application of Arkansas Oklahoma Gas Corporation for a General Change in Rates and Tariffs*, Docket No. 02-24-U. Subject: Analysis and development of recommendations for the appropriate return on equity, capital structure, and overall cost of capital.

Entergy Nuclear Vermont Yankee, LLC

- Vermont Public Service Board proceeding (*Re: Petition of Entergy Nuclear Vermont Yankee for a Certificate of Public Good*, Docket No. 6812)

Subject: Analysis of the economic benefits of nuclear plant generating capacity expansion as required for an application for a Certificate of Public Good.

Central Illinois Lighting Company

- Illinois Commerce Commission rate proceeding (*Re: Central Illinois Lighting Company*, Docket No. 02-0837)

Subject: Analysis and development of recommendations for the appropriate return on equity, capital structure, and overall cost of capital.

Citizens Utilities Corp.

- Vermont Public Service Board rate proceeding (*Tariff Filing of Citizens Communications Company requesting a rate increase in the amount of 40.02% to take effect December 15, 2001*, Docket No. 6596)

Subject: Analysis of the prudence and economic used-and-usefulness of Citizens' long-term purchase of generation from Hydro Quebec, including the estimated environmental costs and benefits of the purchase.

Dynegy LNG Production, LP

- FERC proceeding (*Re: Dynegy LNG Production Terminal, LP*, Docket No. CP01-423-000). September 2001

Subject: Analysis of market power impacts of proposed LNG facility development.

Missouri Gas Energy Corp.

- FERC proceeding (*Re: Kansas Pipeline Corporation*, Docket No. RP99-485-000)

Subject: Gas supply analysis to determine pipeline depreciation rates as part of an overall rate proceeding.

Green Mountain Power Corp.

- Vermont Public Service Board rate proceedings

- *In the Matter of Green Mountain Power Corporation requesting a 12.93% Rate Increase to take effect January 22, 1999*, Docket No. 6107. Subject: Analysis of the appropriate discount rate, treatment of environmental costs, and the treatment of risk and uncertainty as part of a major power-purchase agreement with Hydro-Quebec.
- *Investigation into the Department of Public Service's Proposed Energy Efficiency Utility*, Docket No. 5980. Subject: Analysis of distributed utility planning methodologies and environmental costs.
- *Tariff Filing of Green Mountain Power Corporation requesting a 16.7% Rate Increase to take effect 7/31/97*, Docket No. 5983. Subject: Analysis of distributed utility planning methodologies and avoided electricity costs.
- *Tariff Filing of Green Mountain Power Corporation requesting a 16.7% Rate Increase to take effect 7/31/97*, Docket No. 5983. Subject: Valuation of a long-term power purchase contract with Hydro-Quebec in the context of a determination of prudence and economic used-and-usefulness.

United Illuminating Company

- Connecticut Dept. of Public Utility Control proceeding (*Application of the United Illuminating Company for Recovery of Stranded Costs*, Docket No. 99-03-04)

Subject: Development and application of dynamic programming models to estimate nuclear plant stranded costs.

Other commercial litigation experience

- *IMO Industries v. Transamerica, et al.*. Estimated the appropriate discount rate to use in estimating damages over time associated with a failure of the insurance companies to reimburse asbestos-related damage claims and the resulting losses to the firm's value.
- *John C. Lincoln Hospital v. Maricopa County*. Performed statistical analysis to determine the value of a class of unpaid hospital claims.
- *Catamount/Brownell, LLC. v. Randy Rowland*. Prepared an expert report on the damages associated with breach of commercial lease.
- *Lyubner v. Sizzling Platters, Inc.*. Performed an econometric analysis of damage claims based on sales impacts associated with advertising.
- *Pietro v. Pietro*. Estimated pension benefits arising from a divorce case.

- *Nat'l. Association of Electric Manufacturers v. Sorrell*. Testified on the costs of labeling fluorescent lamps and the impacts of labeling laws on the demand for electricity.

Selected business consulting experience

- For the California Energy Commission, developed a new policy approach to renewables feed-in tariffs and developed portfolio analysis models to develop an “efficient frontier” of generation portfolios for the state.
- For several electric utilities undergoing restructuring, developed complex economic models to value buyer offers associated with nuclear power plant divestitures.
- For a large owner and operator of nuclear generating plants, assessed the likelihood of relicensing a specific nuclear plant in New England, given state regulatory concerns over on-site spent fuel storage.
- For a major New York brokerage firm, performed a fairness opinion valuation of a gas-fired electric generating facility.
- For a large municipal electric utility in Florida, analyzed real option values of alternative proposed purchased generation contracts whose strike prices were tied to future natural gas and oil prices, and developed contract recommendations.
- For a municipal electric utility in Florida, developed an analytical model to determine risk-return tradeoffs of alternative generation portfolios, identify an efficient frontier of generation asset portfolios, and recommended asset purchase and sale strategies.
- For Central Vermont Public Service Corp. and Green Mountain Power Corp., developed analyses of distribution capacity investments accounting for uncertainty over future peak load growth.
- For a major electric utility in Latin America, developed risk management strategies for hedging natural gas supplies with minimal up-front investment; prepared training materials for utility staff; and wrote the utility’s risk management Policies and Procedures Manual.
- For a large investor-owned utility in the Southeast, analyzed alternative environmental compliance strategies that directly incorporated uncertainty over future emissions costs, environmental regulations, and alternative pollution control technology effectiveness.
- For a Special Legislative Committee of the Province of New Brunswick, served as an expert advisor on the development of a deregulated electric power market.

- For the Bonneville Power Administration, developed models to assess the economic impacts of local generation resource development in Washington State and Oregon.
- For an electric utility in the Pacific Northwest, assisted in negotiations surrounding relicensing of a large hydroelectric generating facility.
- Served as an expert advisor for the Northwest Power Planning Council regarding future power supplies, load growth, and economic growth.

Education

- Ph.D., Economics, University of Washington
- M.A., Economics, University of Washington
- B.S., Mathematics and Economics (with honors), University of New Mexico

Professional activities

- Reviewer, *Journal of Regulatory Economics*
- Reviewer, *The Energy Journal*
- Reviewer, *Northwest Journal of Business and Economics*
- Reviewer, *Contemporary Economic Policy*

Professional associations

- Energy Bar Association
- International Association for Energy Economics

Publications

Peer-reviewed journal articles

- Lesser, J.A.. and X. Su, “Design of an Economically Efficient Feed-in Tariff Structure for Renewable Energy Development,” *Energy Policy*, forthcoming, (January 2008).
- Lesser, J.A.: “The Economic Used-and-Useful Test: Its Origins and Implications for a Restructured Electric Industry,” *Energy Law Journal*, 23, 349–382 (November 2002).

- Lesser, J.A., and C. Feinstein: "Electric Utility Restructuring, Regulation of Distribution Utilities, and the Fallacy of "Avoided Cost" Rules." *Journal of Regulatory Economics*, 15, 93–110 (January 1999).
- Lesser, J.A., and C. Feinstein: "Defining Distributed Utility Planning," *The Energy Journal*, Special Issue, Distributed Resources: Toward a New Paradigm, 41–62 (1998).
- Lesser, J.A., and R. Zerbe: "What Can Economic Analysis Contribute to the Sustainability Debate?" *Contemporary Policy Issues*, 13, 88–100 (July 1995).
- Lesser, J.A., and R. Zerbe: "The Discount Rate for Environmental Projects," *Journal of Policy Analysis and Management*, 13, 140–156 (Winter 1994).
- Lesser, J.A., and D. Dodds: "Can Utility Commissions Improve on Environmental Regulations?" *Land Economics*, 70, 63–76 (February 1994).
- Lesser, J.A.: "Estimating the Economic Impacts of Geothermal Resource Development," *Geothermics*, 24, 52–69 (Winter 1994).
- Lesser, J.A.: "Application of Stochastic Dominance Tests to Utility Resource Planning Under Uncertainty," *Energy*, 15, 949–961 (December 1990).
- Lesser, J.A.: "Resale of the Columbia River Treaty Downstream Power Benefits: One Road From Here to There," *Natural Resources Journal*, 30, 609–628 (July 1990).
- Lesser, J.A., and J. Weber: "The 65 M.P.H. Speed Limit and the Demand for Gasoline: A Case Study for the State of Washington," *Energy Systems and Policy*, 13, 191–203 (July 1989).
- Lesser, J.A.: "The Economics of Preference Power," *Research in Law and Economics*, 12, 131–151 (1989).

Books and contributed chapters

- Lesser, J.A., and L.R. Giacchino, *Fundamentals of Energy Regulation*, (Vienna, VA: Public Utilities Reports, 2007).
- Lesser, J.A., and R. Zerbe: "A Practitioner's Guide to Benefit-Cost Analysis," in F. Thompson (ed.) *Handbook of Public Finance*, (New York: Rowan and Allenheld, 1998), pp. 221–268
- Lesser, J.A., D. Dodds, and R. Zerbe: *Environmental Economics and Policy*, (Reading: MA: Addison Wesley Longman, 1997).

Trade press publications

- Lesser, J.A., “Control of Greenhouse Gases: Difficult with Either Cap-and-Trade or Tax-and-Spend,” *Natural Gas & Electricity*, December 2007, 28-31.
- Lesser, J.A., “Déjà vu All Over Again: The Grass was not Greener Under Utility Regulation,” *The Electricity Journal* 20, (December 2007), 35–39.
- Lesser, J.A., “Blowin’ in the Wind: Renewable Energy Mandates, Electric Rates, and Environmental Quality,” *Natural Gas & Electricity*, October 2007, 26-28.
- Lesser, J.A., “No Leg to Stand On,” *Natural Gas & Electricity*, August 2007, 28–31.
- Lesser, J.A., “Goldilocks Chills Out,” *Natural Gas & Electricity*, July 2007, 26–28.
- Lesser, J.A., “Goldilocks and the Three Climates,” *Natural Gas & Electricity*, April 2007, 22–24.
- Lesser, J.A., “Command-and-Control Still Lurks in Every Legislature,” *Natural Gas & Electricity*, February 2007, 8–12.
- Lesser, J.A., and G. Israilevich, “The Capacity Market Enigma,” *Public Utilities Fortnightly*, 147, 38-42 (December 2005).
- Lesser, J.A., “Overblown Promises: The Hidden Costs of Symbolic Environmentalism,” *Living Vermont* 1, 7, 27 (January/February 2005).
- Lesser, J.A., “Regulation by Litigation,” *Public Utilities Fortnightly*, 145, 24–29 (October 2004).
- Lesser, J.A.: “ROE: The Gorilla is Still at the Door,” *Public Utilities Fortnightly*, 145, 19–23 (July 2004).
- Lesser, J.A., and S. Chapel: “Keys to Transmission and Distribution Reliability,” *Public Utilities Fortnightly*, 144, 58–62 (April 2004).
- Lesser, J.A.: “DCF Utility Valuation: Still the Gold Standard?” *Public Utilities Fortnightly*, 142, 14–21 (February 15, 2003).
- Lesser, J.A.: “Welcome to the New Era of Resource Planning: Why Restructuring May Lead to More Complex Regulation, Not Less,” *The Electricity Journal*, 15, 20–28 (July 2002).
- Lesser, J.A., and C. Feinstein: “Identifying Applications for Distributed Generation: Hype vs. Hope,” *Public Utilities Fortnightly*, 140, 20–28 (June 1, 2002).

- Lesser, J.A., et al.: "Utility Resource Planning: The Need for a New Approach," *Public Utilities Fortnightly*, 140, 24–27 (January 15, 2002).
- Lesser, J.A.: "Distribution Utilities: Forgotten Orphans of Electric Restructuring?" *Public Utilities Fortnightly*, 137, 50–55 (March 1, 1999).
- Lesser, J.A.: "Regulating Distribution Utilities in a Restructured World," *The Electricity Journal*, 12, 40–48 (January/February 1999).
- Lesser, J.A.: "Is it How Much or Who Pays? A Response to Rothkopf," *The Electricity Journal*, 10, 17–22 (December 1997).
- Lesser, J.A., and M. Ainspan: "Using Markets to Value Stranded Costs," *The Electricity Journal*, 9, 66–74 (October 1996).
- Lesser, J.A.: "Economic Analysis of Distributed Resources: An Introduction," *Proceedings*, First Annual Conference on Distributed Resources, Electric Power Research Institute, Kansas City, MO, (July 1995).
- Lesser, J.A.: "Distributed Resources as a Competitive Opportunity: The Small Utility Perspective," *Proceedings*, First Annual Conference on Distributed Resources, Electric Power Research Institute, Kansas City, MO, (July 1995).
- Lesser, J.A., and M. Ainspan: "Retail Wheeling: Deja vu All Over Again?" *The Electricity Journal*, 7, 33–49 (April 1994).
- Lesser, J.A.: "An Economically Rational Approach to Least-Cost Planning: Comment," *The Electricity Journal*, 4 (October 1991).
- Lesser, J.A., and J. Weber: "Energy Efficiency in New Zealand: Issues and Appropriate Institutions for the Electricity Sector," Report to the New Zealand Ministry of the Environment, (June 1992).
- Lesser, J.A.: "Long-Term Utility Planning Under Uncertainty: A New Approach," Paper presented for the Electric Power Research Institute: *Innovations in Pricing and Planning*, (May 1990).
- Lesser, J.A.: "Centralized vs. Decentralized Resource Acquisition: Implications for Bidding Strategies," *Public Utilities Fortnightly*, (June 1990).
- Lesser, J.A.: "Most Value—The Right Measure for the Wrong Market?" *The Electricity Journal* 2, 47–51 (December 1989).
- Lesser, J.A., et al.: "Global Warming: Implications for Energy Policy," Washington State Energy Office, Energy Policy and Planning Research Series (July 1989).

Selected speaking engagements

- “Alternative Regulatory Structures and Tariff Mechanisms: Practical approaches to providing low-cost, environmentally responsible energy and how to avoid some dangerous pitfalls,” Western Energy Institute, October 1, 2007.
- “Economics and Energy Regulation,” Law Seminars International, Washington, DC, March 15-16, 2007.
- “Energy in the Northeast: Resource Adequacy & Reliability,” Law Seminars International, Boston, MA, October 16–17, 2006.
- “Energy in the Southwest: New Directions in Energy Markets and Regulations,” Law Seminars International, Santa Fe, NM, July 14, 2006.
- “Energy and the Environment,” Vermont Journal of Environmental Law, South Royalton, VT, March 10, 2006.
- “Electricity and Natural Gas Regulation: An Introduction,” Law Seminars International, Washington, DC, March 17–18, 2005.