

**Lexecon**

**Submission of Gustavo Bamberger  
For Transpower New Zealand Limited**

## **SUBMISSION OF GUSTAVO BAMBERGER**

### **I. INTRODUCTION**

1. I am a Senior Vice President of Lexecon, a consulting firm that specializes in the application of economics to legal and regulatory issues. I received a B.A. degree from Southwestern at Memphis, and M.B.A. and Ph.D. degrees from the University of Chicago Graduate School of Business. I recently provided testimony to the New Zealand Commerce Commission on the Unison matter. I also have provided testimony on a variety of economic issues in the electricity utility industry to the U.S. Federal Energy Regulatory Commission, the Public Utilities Commission of the State of California and the Corporation Commission of the State of Oklahoma.
2. In addition, I have provided expert testimony on other economic issues to various courts and regulatory bodies, including the High Court of New Zealand, the U.S. Department of Transportation, the U.S. Federal Communications Commission, the U.S. International Trade Commission, the Canadian Competition Tribunal, U.S. state regulatory agencies and U.S. state and federal courts. My curriculum vitae is attached at the end of this submission.
3. The New Zealand Commerce Commission (the Commission) recently published its intention to make a declaration of control in respect of electricity transmission services supplied by Transpower New Zealand Limited (Transpower). The Commission has reached the preliminary conclusion ‘that declaring control over

the transmission services supplied by Transpower would promote the efficient operation of markets directly related to electricity transmission and distribution.’<sup>1</sup>

4. The Commission’s preliminary conclusion is based, at least in part, on its evaluation of the ‘net benefits’ of imposing control. According to the Commission, imposing control likely would generate large benefits and small costs. Specifically, the Commission finds that ‘[i]n Transpower’s case, there is no overlap in the estimated range of the benefits of control with the estimated level of the costs of control.’<sup>2</sup>
5. I have been asked by Transpower to evaluate the Commission’s analysis of the net benefits of control. As I explain in this submission, I find that the Commission’s analysis is incomplete and fails to support its claim that imposing control would generate substantial net benefits.
6. The rest of my submission is organized as follows. In Section II, I explain why the Commission’s analysis of the benefits of control is incomplete and overstates the likely benefits of control. In Section III, I explain why the Commission’s analysis of the costs of control also is incomplete and understates the likely costs of control.

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1. Commerce Commission, ‘Regulation of Electricity Lines Businesses, Targeted Control Regime, Intention to Declare Control, Transpower New Zealand Ltd,’ 27 January 2006 (Intention to Declare Control), at 12.
2. Intention to Declare Control, at 11.

## II. THE COMMISSION OVERSTATES THE 'BENEFITS OF CONTROL'

7. The Commission evaluates the benefits of control by comparing Transpower's future prices and costs in a 'counterfactual' scenario ('the likely outcomes over the next few years in the absence of control') to a 'factual' scenario ('the likely outcomes should control be imposed').<sup>3</sup> According to the Commission, the imposition of control would generate significant benefits 'from a reduced prospect of inefficient transmission investment and inefficient pricing decisions.'<sup>4</sup> The Commission identifies five categories of potential benefits, but quantifies the value of only three.<sup>5</sup>

8. The first category of benefit that the Commission quantifies is derived from the prevention of inefficient pricing decisions. Specifically, the Commission claims that, absent control, Transpower's prices in 2006/07, and perhaps in later years, will be inefficiently high. The next two quantified categories of benefit reflect benefits from preventing or reducing inefficient investment. Specifically, the Commission claims that, absent control, Transpower's investments costs will be too high and incurred too soon.

### A. The Commission Fails to Show that Transpower's Prices in 2006/07 Likely Will be Inefficient

8. Transpower's prices are inefficiently high (given its costs) if Transpower earns 'excess profits' from charging and collecting those prices. In its Intention to

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3. Intention to Declare Control, ¶192.

4. Intention to Declare Control, at 6.

5. See, for example, Intention to Declare Control, Table 5, at 68.

Declare Control, however, the Commission has not attempted to determine whether Transpower would earn excess profits in the future in the absence of control. As the Commission explains, its

approach to develop a “factual” for Transpower differs from that taken in the recent intention to declare control of Unison Networks Limited. In that intention, the Commission undertook a “building blocks analysis” to construct a number of possible future price paths (i.e., factual scenarios) to compare with Unison’s own projections of its prices over the next few years (i.e., counterfactual scenarios). In Transpower’s case, the Commission does not consider that such an analysis would be feasible until it is known which elements of Transpower’s plans for future investments are to proceed.<sup>6</sup>

9. The ‘efficient level’ of Transpower’s prices in the future (i.e., the level of prices at which Transpower does not earn excess profits) depends on Transpower’s future investments (i.e., costs). Indeed, the Commission recognizes that ‘[t]here is a strong interrelationship between transmission pricing, investment and service quality, and the efficient level of Transpower’s prices will be highly dependent on the outcome of the Electricity Commission’s investment approval process.’<sup>7</sup> Thus, an analysis of Transpower’s expected future prices would have to account for the ‘outcome of the Electricity Commission’s investment approval process.’ For example, if all of Transpower’s plans for future investments are eventually approved by the Electricity Commission (EC), Transpower’s expected future price increases would be evaluated in the context of Transpower’s planned future investments. The Commission has not done such an analysis, and thus cannot conclude that Transpower’s expected future price increases would produce

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6. Intention to Declare Control, at 6.

7. Intention to Declare Control, ¶130.

excess profits if the EC approves Transpower's planned future investments.

10. Alternatively, the EC may not approve all of Transpower's plans for future investments. In that circumstance, Transpower's future price increases – which could be less than currently anticipated because of the reduction in planned investment costs – would be evaluated in the context of Transpower's approved (i.e., reduced) future investments. The Commission has not analyzed Transpower's likely future prices and costs under the assumption that the EC does not approve Transpower's current planned investment programme. Thus, the Commission cannot conclude that Transpower's expected future price increases would produce excess profits if the EC does not approve all of Transpower's planned future investments. That is, the Commission has failed to demonstrate that Transpower's expected future price increases will be inconsistent with its future costs whether or not the EC eventually approves Transpower's proposed investment programme.
11. Nonetheless, the Commission estimates the benefit from the 'limitation of excess profits in 2006/07' as \$36 million. This amount is equal to the Commission's estimate of the 'unexplained level of Transpower's threshold breach for the 2005/06 pricing year (i.e., \$35.8 million).'<sup>8</sup> That is, the Commission assumes that the imposition of control would reduce Transpower's 'excess profits' by an amount equal to the Commission's estimate of Transpower's threshold breach in 2005/06.

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8. Intention to Declare Control, ¶23.

12. The Commission's estimate of this benefit of control is based on the assumption that an 'unexplained' threshold breach by Transpower implies that Transpower earns excess profits. But a threshold breach is not equivalent to the existence of excess profits. For example, if a firm's threshold price level is set at a level below that needed to earn a competitive rate of return, revenues in excess of the threshold level are not equivalent to excess profits. The Commission has not presented an analysis that shows that Transpower's threshold breach in 2005/06 resulted in prices above the efficient level (e.g., through the type of 'building blocks analysis' the Commission used in the Unison matter).<sup>9</sup>
13. Furthermore, even if the Commission had demonstrated that Transpower earned excess profits in 2005/06 of \$36 million, the Commission presents no basis to conclude that Transpower's excess profits in the 2006/07 'counterfactual' scenario would be the same amount. As I have discussed, the Commission has not analyzed Transpower's likely prices and costs in 2006/07 and thus cannot conclude that the imposition of control likely would reduce Transpower's excess profits by \$36 million (or any other amount).
14. The Commission also suggests that the imposition of control 'could further limit excess profits in subsequent years.'<sup>10</sup> This suggestion appears to be based on the Commission's view of the 'counterfactual' scenario which 'recognises Transpower's recent announcements concerning a series of significant price

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9. I note that the analysis prepared by NZIER for the Commission indicates that, under certain assumptions, Transpower's 2005/06 breach may be as low as \$4.3 million. See NZIER, 'Transpower Post-Breach Inquiry, Further Analysis of Breaches, Report to the Commerce Commission,' 28<sup>th</sup> November 2005, Table 4, at 11.

10. Intention to Declare Control, ¶231.

increases over the next few years, starting with an increase of 19% on average from 1 April 2006.<sup>11</sup> That is, the Commission appears to be suggesting that ‘significant price increases over the next few years’ indicate the presence of excess profits in those years unless control is imposed. The Commission does not explain the basis for this suggestion, but it appears to be based on two assumptions: (1) Transpower’s current expected future prices would result in excess profits; and (2) Transpower’s expected future prices do not depend on its future investment costs. The Commission provides no basis for either assumption.

15. As I have discussed, the Commission has failed to show that Transpower’s prices in 2006/07 will produce excess profits; similarly, the Commission has failed to show that Transpower’s expected prices in subsequent years would produce excess profits. Furthermore, if some portion of Transpower’s current investment plans are not approved (or are delayed) by the EC, Transpower’s future price increases could be smaller than it currently expects. Thus, it would not be appropriate for the Commission to evaluate Transpower’s currently planned future price increases – which are based on its currently planned future investment expenses – under the assumption that the EC will not approve all of Transpower’s investment programme.

**B. The Commission Provides No Basis for its Assumption that Control Likely Will Reduce Investment Expense**

16. The Commission has concluded that, absent control, Transpower’s

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11. Intention to Declare Control, ¶194.

Investment costs likely will be inefficiently high. Specifically, the Commission 'considers that cost savings of this order [5-10%] are not unlikely given that the Electricity Commission has already identified a number of investment proposals that deserve closer scrutiny.'<sup>12</sup> The Commission estimates that cost savings of five to ten percent would result in 'investment efficiency gains' of \$117 to \$234 million.<sup>13</sup>

17. The Commission's estimate is based on its apparent assumption that the EC likely will find that Transpower's proposed investment costs can be reduced by five to 10 percent. But the EC has not completed its review of Transpower's proposed investment plan ('the Electricity Commission [will] need a longer timeframe than is currently indicated in the [Government Policy Statement] for approving the first grid update plan. The Minister indicated that mid-2006 would be a realistic date for that decision.'<sup>14</sup>). If the EC determines that Transpower's proposed investments are efficient, control generates no benefit because there would be no basis to assume that investment costs could be reduced by \$117 to \$234 million.
18. Alternatively, the EC may determine that some portion of Transpower's investment proposals (e.g., those that 'deserve closer scrutiny') are not efficient. If, as a result, Transpower does not make those investments, the reduction in investment costs occurs whether or not control is imposed by the Commission.

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12. Intention to Declare Control, ¶234.

13. Intention to Declare Control, ¶235.

14. Intention to Declare Control, ¶66.

For example, the Commission explains that it ‘considers that the [EC’s] application of the Grid Investment Test, which will expose Transpower’s proposals and various alternatives to public scrutiny and debate, is likely to have a substantial impact on the efficiency of Transpower’s investment programme.’<sup>15</sup> If ‘public scrutiny and debate’ were to lead to reductions in Transpower’s planned investments, there is no basis to assume that the imposition of control by the Commission would lead to further reductions. That is, the imposition of control does not produce incremental investment cost savings if those same savings are produced by actions taken by the EC.

19. Thus, imposition of control by the Commission generates the type of ‘reduced investment’ benefits estimated by the Commission only if two conditions are met: (1) some proposed investments are, in the future, found to be inefficient by the EC; and (2) yet Transpower chooses to make those investments anyway. The Commission provides no basis to assume that either, or both, of these conditions is likely to be met.

**C. The Commission Provides No Basis for its Assumption that Control Likely Will Result in Efficient Investment Delays**

20. The Commission also has concluded that, absent control, Transpower likely will make investments inefficiently soon. Specifically, the Commission considers that ‘[i]t is not unrealistic to assume a deferral of 1-3 years for each of Transpower’s major investment items, through a process under which the Electricity Commission will decide on the appropriate timing after extensive consultation

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15. Intention to Declare Control, at 10.

with interested parties.<sup>16</sup> The Commission estimates 'improved timing of investments' will generate benefits of \$31 to \$405 million.<sup>17</sup>

21. This source of 'benefit' is based on the assumption that the EC likely will conclude that it would be efficient to delay Transpower's proposed investments. But the EC has not completed its review of Transpower's proposed investment plan. If, contrary to the Commission's assumption, the EC determines that the timing of Transpower's proposed investments is appropriate, this source of 'benefit' equals zero, not \$31 to \$405 million.<sup>18</sup>
22. Alternatively, the EC may determine that some portion of Transpower's investment proposals should be delayed. If, as a result, Transpower delays those investments, the benefit from such delay occurs whether or not the Commission imposes control on Transpower. That is, control does not produce incremental benefits from delay if the same savings are produced by actions taken by the EC.
23. For this reason, control generates the type of 'delay' benefits estimated by the Commission only if two conditions are met: (1) the EC determines that some proposed investments should be delayed; and (2) yet Transpower chooses not to delay those investments. The Commission provides no basis to assume that either, or both, of these conditions is likely to be met.

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16. Intention to Declare Control, ¶236.

17. Intention to Declare Control, ¶¶237-38.

18. The Commission suggests that 'the EC may tend toward ensuring that investments are in place somewhat in advance of the time they are needed,' but provides no explanation for this suggestion. Intention to Declare Control, at 10.

**C. The Commission Provides No Basis for its Assumption that Unquantified Benefits of Control Likely Will be Significant**

24. In addition to the three categories of benefits it quantifies, the Commission also identifies two additional potential benefit categories. Although it has not attempted to quantify the size of these benefits, the Commission ‘considers that effective regulatory oversight is likely to provide additional benefits from lower cost implementation of transmission investments and a more efficient time profile of prices. While the Commission has not estimated these benefits, it considers that these could be significant.’<sup>19</sup>
25. The Commission does not, however, identify what these additional benefits are, or how they differ from the benefits of reduced and delayed investment that it has attempted to quantify. First, it is not clear how the unquantified category ‘lower cost implementation of transmission investments’ differs from the quantified category ‘investment efficiency gains’ because both categories refer to reduced investment expenses. Furthermore, to the extent that the two categories differ, the Commission does not explain why any potential savings from ‘lower cost implementation of transmission investments’ would not be addressed during the EC’s review of Transpower’s investment programme. If EC review leads to that type of cost savings, such cost savings should not be attributed to the imposition of control by the Commission (i.e., such savings would not be incremental benefits of control).

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19. Intention to Declare Control, ¶239.

26. Second, it is not clear how the unquantified category 'more efficient time profile of prices' differs from the quantified category 'improved timing of investments' because both refer to benefits arising from delay. It is possible that the Commission distinguishes the 'efficient time profile' category from the 'timing of investment' category by placing in the first category any benefit produced from the delay of a price increase when there is no delay in investment. If this is what the Commission means by a benefit from the 'more efficient time profile of prices,' I do not agree that it is a separate category of potential benefit of control that the Commission should consider in its analysis.
27. To see why, suppose that as a result of control a firm delays a price increase from year 1 to year 2. If the firm's price in year 1 is then below the efficient level, the delayed price increase is not a benefit of control (indeed, actions that produce prices below competitive levels reduce economic efficiency). Alternatively, suppose that after the delay of a proposed price increase, the firm's price in year 1 is equal to the efficient level. In this circumstance, the firm would have earned excess profits in year 1 if the price increase had not been delayed. Thus, the delayed price increase produces a benefit by reducing excess profits in year 1, but this is not a separate source of benefit because it is already captured in the Commission's analysis (in its 'limitation of excess profits' category).
28. The Commission also may include the prevention of what it refers to as the harm from 'pre-funding' of investments in the 'more efficient time profile' category of benefits. The Commission explains that it 'is of the view that Transpower is effectively seeking to pre-fund substantial investments that have not yet been

subjected to the regulatory approval framework' and that '[a]ny pre-funding exercise by Transpower will potentially have distributional consequences where today's consumers pay for investments that result in benefits for future consumers.'<sup>20</sup> I disagree that preventing 'pre-funding' would be a benefit of control.

29. If a regulated firm earning a competitive rate of return begins a large investment project and is not able to increase its prices until the investment is completed, it will fail to earn a competitive rate of return in the years before the asset is ready for use. Once the investment is completed, the firm would be able to earn a competitive rate of return over the life of the investment only if it charged prices that generated higher-than-competitive returns (i.e., the firm would earn less than its weighted average cost of capital during the construction phase, and more than its weighted average cost of capital once construction is complete).
30. In general, such a pricing pattern would not send appropriate price signals to the marketplace. For example, if the additional investment is needed because capacity constraints have developed, 'low' transportation rates during the planning and/or building phase would incorrectly send the signal that capacity is plentiful. Furthermore, if the regulated firm would not be able to guarantee higher-than-competitive returns in the future (e.g., by signing contracts that specify high prices in the future), the firm may not make needed investments because its expected rate of return on such investments could be below the competitive rate.

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20. Intention to Declare Control, ¶¶212-13.

31. I also disagree that ‘today’s consumers pay[ing] for investments that result in benefits for future consumers’ is a harm that should be prevented. Customers pay Transpower for electricity delivery services over the Transpower network. At any point in time, Transpower incurs expenses that are not needed to maintain the reliability of the network at that point in time. For example, Transpower’s maintenance expenses likely increase the reliability of the network, at least to some extent, in the future (e.g., expenditures on ‘vegetation management’ likely deliver future benefits). Thus, the revenues collected from every customer inevitably reflect expenditures that generate ‘benefits for future consumers.’ Planning expenditures, like maintenance expenditures, are needed to maintain network reliability (because network reliability requires network expansion, and prudent network expansion requires planning). The Commission does not explain why maintenance expenditures that improve future network reliability, for example, should be distinguished from planning expenditures that also improve future network reliability.
32. Finally, I note that although the Commission has concluded that these additional benefits could be significant, the Commission apparently has not concluded that they are likely to be significant.

## **II. THE COMMISSION UNDERSTATES THE ‘COSTS OF CONTROL’**

33. The Commission identifies two types of costs of control – ‘direct’ and ‘indirect’ – but only quantifies the direct costs of control. According to the Commission, ‘the incremental direct costs of control, are those that would be incurred over and above the costs already associated with the existing monitoring activities of the

Part 4A regime administered by the Commission, and the approval processes in the [Electricity Governance Rules] administered by the [EC].<sup>21</sup> The Commission estimates that the total incremental direct costs of control are only about \$3.0 million in net present value terms.

34. I note that the Commission assumes that the costs associated with ‘existing monitoring activities’ and ‘approval processes’ will be incurred whether or not control is imposed, and thus only incremental costs associated with control are relevant to the Commission’s analysis of the net benefits of control. In contrast, the Commission apparently does not assume that the benefits associated with those activities and processes will be captured by consumers whether or not control is imposed. As a result, the Commission appears to include the total, not incremental, potential benefit from control in its analysis of the net benefits of control.
35. The Commission does not estimate the incremental indirect costs of control, but ‘considers that, in determining the net benefits of control, the incremental indirect costs of control are unlikely to be significant relative to the potential benefits of control.’<sup>22</sup> The Commission also claims that ‘[w]hile the potential impacts of regulatory error can be significant, the Commission does not consider that the associated level of indirect costs would differ significantly between the factual and counterfactual.’<sup>23</sup>

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21. Intention to Declare Control, ¶242.

22. Intention to Declare Control, ¶245.

23. Intention to Declare Control, ¶245.

36. If the Commission's analysis of the likely indirect costs of control were correct, the Commission would, in general, find that there likely are substantial benefits of control whenever any firm that makes substantial investments breaches a threshold. As a result, several steps of the Commission's 'Targeted Control Process' would be eliminated – that is, the Commission generally could pass directly from the 'Identification' step to a Declaration of Control.<sup>24</sup>

**A. The Commission Fails to Show that Indirect Costs of Control are Unlikely to be Significant**

37. The Commission provides no basis for its conclusion that incremental indirect costs of control are 'unlikely to be significant.' However, the Commission's analysis of the benefits of investment delay implies that imposing control can result in substantial indirect costs.

38. The Commission claims that the benefit of a one-year deferral of Transpower's planned investment programme is \$148 million, and the benefit of a three-year deferral is \$405 million. That is, the benefit of delay increases as the delay is increased, so the 'benefit' of deferral for more than three years must be more than \$405 million. Yet the Commission does not claim benefits from deferring investments for more than three years, presumably because the Commission recognizes that deferring investments for too long can be extremely costly. That is, the Commission implicitly recognizes that although the 'benefit' of deferring an investment increases as the length of deferral increases, deferrals also can generate costs so large that long deferrals can be inefficient. Indeed, if there

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24. See Intention to Declare Control, ¶44, Figure 1.

were no costs associated with investment deferral, it would be optimal to defer investments indefinitely.

39. The Commission's approach thus implicitly recognizes that the indirect costs of deferring investment for four (or more) years are substantial. But the Commission provides no analysis in support of its apparent assumptions that: (1) the indirect costs of deferring investments for four (or more) years are substantial; while (2) the indirect costs of deferring investments for one to three years 'are unlikely to be significant relative to the potential benefits of control.'

**B. The Commission Fails to Show that Indirect Costs of Control Likely Will be Similar in the Factual and Counterfactual Scenarios**

40. As I have discussed, the Commission recognizes that 'the potential impacts of regulatory error can be significant,' but reaches the conclusion that the potential costs of regulation likely would not differ significantly between the factual and counterfactual scenarios. I disagree. The Commission cannot simultaneously claim that: (1) imposing control is likely to substantially alter Transpower's investment programme; and (2) substantial alterations in Transpower's investments are unlikely to produce substantial indirect costs.
41. The imposition of control (i.e., the factual scenario) does not raise at least the possibility of generating substantial indirect costs as compared to the counterfactual scenario only if control has little or no effect on the amount and/or timing of Transpower's investments. If, instead, the imposition of control has substantial effects on the amount and/or timing of Transpower's investments – as the Commission claims – such changes raise at least the possibility of substantial

indirect costs. Because regulators face substantial uncertainty, any regulatory intervention – particularly in major investment decisions – can have substantial unintended adverse consequences. For example, a reduction or delay in Transpower’s investments could substantially reduce Transpower’s dynamic efficiency.

42. Such potential unintended adverse consequences can be avoided only if the imposition of control has little or no effect on the amount and timing of Transpower’s investments. But if control has little or no effect on the amount and timing of Transpower’s investments, control would produce little or nothing in the form of benefits associated with reductions in inefficient investments. Thus, either: (1) control has a substantial effect on Transpower’s investments and so introduces the possibility of substantial regulatory error and substantial unintended adverse consequences; or (2) control has little effect on Transpower’s investments and so the Commission has substantially overstated the benefits of control. In both cases, the Commission’s analysis overstates the net benefits of control.
43. The Commission, however, has not undertaken a sensitivity analysis of its estimate of the net benefits of control. In my view, an appropriate sensitivity analysis would incorporate both:
  - (1) the possibility that the benefits of control are substantially smaller than the Commission estimates. Indeed, as I have discussed, the

incremental benefits of control may be zero for two of the three benefit categories that the Commission quantifies;<sup>25</sup> and

- (2) the possibility that indirect costs of control could be substantial because the imposition of control introduces the possibility of substantial unintended adverse consequences.

**C. The Commission's Analysis of Indirect Costs Implies the Elimination of Several Steps of the 'Targeted Control Process'**

44. The Commission's approach implies that there are substantial benefits of control whenever any firm that makes substantial investments breaches a threshold. In particular, the Commission's approach implies that the 'Estimated Costs of Control' for any firm that breached a threshold would generally be modest (e.g., \$3.0 million for incremental direct costs of control and 'not significant' indirect costs of control), while control would generate substantial potential benefits of control (e.g., at least five to 10 percent of expected investment expenses). That is, whenever a threshold breach occurs, the Commission's analysis implies that: (1) the incremental direct costs of control are modest; (2) the incremental indirect costs of control are unlikely to be significant; and (3) the potential benefits from reducing and/or delaying investments are large. As a result, the Commission would generally be expected to conclude that the 'indicative benefit' of control would significantly exceed the costs of control.

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25. Also as I have discussed, the NZIER analysis suggests that the benefit of preventing 'excess profits' could be as low as \$4.3 million (i.e., even adopting the Commission's assumption that the size of a threshold breach is equivalent to the amount of excess profits).

45. If there are substantial net benefits of control whenever any firm that makes substantial investments breaches a threshold, then several steps of the Commission's 'Targeted Control Process' would not appear to be relevant for such firms. In particular, Stage 1 and Stage 2 post-breach inquiries apparently would not be needed, and the Commission would, in effect, move from 'Identification' to the Declaration of Control whenever a threshold breach occurs.

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**January 2006**

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LEXECON, Chicago, Illinois (3/87-Present): Senior Vice President  
UNIVERSITY OF CHICAGO, (1984, 1986): Lecturer  
GOVERNORS STATE UNIVERSITY, (1986): Community Professor  
UNIVERSITY OF CHICAGO, (1982-1986): Teaching Assistant  
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#### ACADEMIC HONORS AND FELLOWSHIPS

University of Chicago Fellowship, 1981-1984  
H.B. Earhart Fellowship, 1985-1986

#### RESEARCH PAPERS

“Antitrust and Higher Education: Was There a Conspiracy to Restrict Financial Aid?”  
co-authored with D. Carlton and R. Epstein, RAND Journal of Economics, (Vol. 26, No. 1, Spring 1995, pp. 131-147).

“Antitrust and Higher Education: MIT Financial Aid (1993),” co-authored with D. Carlton, in The Antitrust Revolution: Economics, Competition, and Policy, John Kwoka and Lawrence White, eds., 1998.

“Airline Networks and Fares”, co-authored with D. Carlton, in Handbook of Airline Economics, 2nd ed., Darryl Jenkins, ed., 2003.

“Revisiting Maximum Resale Price Maintenance: State Oil v. Khan (1997), in The Antitrust Revolution: Economics, Competition, and Policy, John Kwoka and Lawrence White, eds., 2004.

“An Empirical Investigation of the Competitive Effects of Domestic Airline Alliances,” co-authored with D. Carlton and L. Neumann, Journal of Law and Economics, (Vol. 47, No. 1, April 2004, pp. 195-222).

“Predation and the Entry and Exit of Low-Fare Carriers,” co-authored with D. Carlton, in Advances in Airline Economics: Competition Policy and Antitrust, Darin Lee, ed., 2006 (forthcoming).

### TESTIMONIAL EXPERIENCE

Direct, Rebuttal and Cross-Examination Testimony of Gustavo E. Bamberger on behalf of Producer - Marketers Transportation Group, before the Illinois Commerce Commission in Docket No. 90-0007, April 24, 1990 (Direct); July 6, 1990 (Rebuttal); and May 30, 1990 and August 3, 1990 (Cross-Examination).

Testimony of Gustavo E. Bamberger in Re: United States of America v. Irving A. Rubin: In the U.S. District Court for the Northern District of Illinois, Eastern Division, No. 91 CR 44-2, December 3, 1993.

Testimony of Gustavo E. Bamberger in Re: Center for Public Resources Arbitration, E. Merck and EM Industries, Incorporated, against Abbott Laboratories, February 8, 1994.

Deposition and Testimony of Gustavo E. Bamberger in the Matter of: Michael R. Sparks, Debtor: In the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, No. 92 B 21692, May 9, 1994 (Deposition and Testimony).

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