



Cleve B. Tyler, PhD, Senior Managing Economist, LECG

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SUMMARY:

Cleve B. Tyler is a senior managing economist in LECG's Washington, DC office. He has analyzed competition and damages issues in matters that are before federal and state courts, administrative law judges, and regulatory commissions, and in merger investigations. Dr. Tyler has testified at deposition and trial in federal court regarding damages issues. He has developed or analyzed damages models in a range of industries pertaining to various allegations including breach of contract, fraud, antitrust, and patent infringement. Dr. Tyler's work includes evaluation of market definition and competitive effects using regression analysis and economic modeling. He has evaluated horizontal and/or vertical competition issues in industries such as waste collection and disposal, video games, battery separators, home appliances, medical devices, enterprise application software, billboard leases, avionics, and carbonated soft drinks. He has analyzed competition and regulation in the electric industry in particular, including issues related to electric power sales, forward sales, derivative trading, entry conditions, and capacity payments.

Dr. Tyler holds a PhD in economics from Clemson University specializing in industrial organization, finance, and public sector. He teaches a microeconomic graduate course at Johns Hopkins University, has taught economics classes at Clemson University, and has published papers and made presentations on competition issues. Dr. Tyler is a member of the American Economic Association (AEA) and American Bar Association (ABA).

EDUCATION:

PhD, Economics, Clemson University (1998)
BA, Economics, University of Virginia (1993)

PRESENT POSITIONS:

LECG

Senior Managing Economist (January 2006 to present)

- Damages analysis
- Antitrust and competition analysis
- Energy-related analysis
- Junior Staff Coordinator (April 2008 to present)

Johns Hopkins University

Adjunct Professor of Economics (Summer 2010 to present)

- Microeconomic Theory and Policy graduate course (Fall 2010)



PRIOR PROFESSIONAL EXPERIENCE:

LECG

Managing Economist (January 2003–December 2005)

Senior Economist (January 2001–December 2002)

- Recruiting Coordinator (July 2001–June 2008): Oversight of junior staff recruiting for Washington, DC office

Economic Analysis LLC

Economist (August 1998–December 2000)

Clemson University

Instructor (1996–1998)

- Principles of Microeconomics (Spring 1998, Fall 1996, and Summer 1996)
- Principles of Macroeconomics (Spring 1997)

Teaching Assistant (1995–1996)

- Principles of Macroeconomics, Head Teaching Assistant (Spring 1996)
- Principles of Microeconomics, Head Teaching Assistant (Fall 1995)
- Principles of Macroeconomics (Spring 1995)

Research Assistant for Robert E. McCormick and Michael T. Maloney (Fall 1996)

Electric Lite

Economic Consultant and Director of Business Development (1997)

General Accounting Office: Resources, Community, and Economic Development Division

Intern (Summer 1995)

Strategic Analysis Inc.

Analyst (May–August, 1990–93)

TESTIMONY:

William Brody v. Village of Port Chester, et al., US District Court, Southern District of New York, Case No. 00 CIV 7481 (HB), deposition and trial testimony, 2007. Evaluated damages related to the loss of right to appeal the taking of property pursuant to New York's eminent domain law.

SELECTED CONSULTING EXPERIENCE:

Finance and Damages

- Evaluated lost profits and reasonable royalty claims associated with patents related to golf ball technology. (2007-2010)
- Analyzed claim that the bankruptcy of a regional drug store was caused by a major

supplier's change in payment terms. (2006)

- Estimated reasonable royalty for alleged infringement of patents related to liquid crystal display monitors. (2006)
- Estimated damages associated with alleged breach of contract and alleged fraud associated with an agreement to sell fuel injectors for use in diesel engines. (2002–06)
- Assessed the value of a right of first refusal for Cleveland Browns' season ticket holders following the Browns' announcement of their intention to move to Baltimore. (2000)
- Evaluated whether defendants engaged in matched and manipulative stock trading. (2000)
- Analyzed and evaluated damage claims in trademark infringement suit related to goto.com. (1999)
- Evaluated alleged insider trading, including performing an analysis of the trading patterns of defendants. (1999)
- Evaluation of damages resulting from a rogue trader's violation of index arbitrage guidelines. (1998–2000)

Antitrust

- Evaluated merger in coffee industry; aided in compliance with Second Request. (2009-2010)
- Analyzed claims by FTC regarding consummated merger and monopolization involving Daramic in the battery separator industry. (2008-2009)
- Evaluated merger of Republic Services and Allied Waste in the waste collection and disposal industries; aided in compliance with Second Request. (2008)
- Analyzed merger in the video game industry; aided in compliance with Second Request. (2008)
- Analyzed competition related to financial management and human resource management enterprise software products with regard to merger between Oracle and PeopleSoft. (2004)
- Analyzed market definition, evaluation of contractual provisions alleged to violate state antitrust statute, and evaluation of damage claims related to billboard leases. (2003)
- Evaluated damages involving marketing programs in selling genetically modified soybeans and herbicides. (2002)
- Supported evaluation of regulatory oversight of refining joint venture between Texaco Inc. and Shell Oil Company. (2001)

- Evaluated whether Coca-Cola was engaging in anti-competitive practices in its sale of syrup to 7-Eleven franchisees for fountain and Slurpee beverages. (2000)
- Analyzed and evaluated the financial structure of a sports league as part of effort to determine if the single-entity structure of the league had anti-competitive effects for players. (1999–2000)
- Estimated damages resulting from the alleged illegal tying of Flight Management Systems to Flight Control Systems for several regional and corporate aircraft programs. (1998–2000)

Energy

- Analyzed allegations of manipulative trading of energy derivative products. (2007–2009)
- Evaluated the reasonableness of wholesale electricity prices resulting from the 2006 Illinois auction. (2007)
- Evaluated claims that an artificial price in electricity forward markets was created through spot market actions and information dissemination. (2004-2007)
- Evaluated market definition issues as well as regulatory and market changes affecting the sale of electricity in California and the western U.S. (2004–05)
- Analyzed market power, generator availability, shape of the demand curve, and role of historical capacity levels in support of FERC testimony regarding the proposal for a locational installed capacity market (LICAP) in New England. (2004–05)
- Provided analytical support for testimonies at FERC regarding the California electricity crisis (transmission constraints, calculation of rebates under various scenarios, and trading practices of electric generator during 2000 and 2001). (2001–03)

PUBLICATIONS:

“Admissibility of Expert Damages Testimony in IP Cases,” Appendix A in Assets and Finances: Calculating Intellectual Property Damages, 2010 Edition, by Troxel, Richard B. and William O. Kerr, West, 2010.

“Shifting Regulatory Oversight of Utility Mergers” in Innovating for Transformation: The Energy and Utilities Project, Montgomery Research, Inc., 2006, with Cliff W. Hamal.

“Market Power Mitigation or Obviation, That is the Question: FERC’s Pending Decision on New England’s Installed Capacity Market Design,” *The Energy Antitrust News*, Winter 2005.

“Renewed Interest in Coordinated Effects in Merger Analysis: The *UPM Case*,” *Trade Practices Law Journal*, Summer 2004, with David A. Weiskopf.

“Issues in the Deregulation of the Electric Industry,” PhD Dissertation, Clemson University, 1998.

“The Wires Charge: Risk and Rates for the Regulated Distributor,” *Public Utilities Fortnightly*, September 1997, with Michael T. Maloney and Robert E. McCormick.

PAPERS AND MANUSCRIPTS:

“An Economic Evaluation of the Competitive Nature of Reverse Payment Settlements,” with William O. Kerr. Fall 2009.

Comments for Horizontal Merger Guidelines Review Project, “Comments on Questions 2, 4, and 13,” November 9, 2009.
(www.ftc.gov/os/comments/horizontalmergerguides/545095-00027.htm)

“An Agreement in the Rough: A Modified Cournot Approach to Distribution Agreements,” Working Paper with Ecer, Kahwaty, Nieberding, and Weiskopf. Winter 2006.

“A Plan for Restructuring the Electric Industry in South Carolina,” Citizens for a Sound Economy. June 30, 1997, with Michael T. Maloney and Robert E. McCormick.

“Redistribution and Retribution: A Positive Theory of Transfers and Police Expenditures,” Public Finance Workshop Paper, Clemson University. December 1996.

“Amtrack: Information on Subsidies in Thruway Bus Operations,” General Accounting Office. Resources, Community, and Economic Development Division. May 9, 1995. (major contributor)

PRESENTATIONS

“Critical Elements of Ancillary Services Market Design,” workshop at EUCI conference, Minneapolis, MN; June 18, 2010, with Scott M. Harvey.

Japanese Intellectual Property Association – Damages expert witness in mock trial regarding patent infringement; Washington, DC; November 9, 2007 and November 13, 2009.

Panelist for “Careers in ‘Business Advisory Services’ Consulting,” University of Virginia, Commerce Career Day, September 24, 2009.

“An Analysis of Reverse Payments in the Pharmaceutical Industry – An Antitrust Topic,” Charlottesville, VA; September 25, 2008.

“Introduction to Financial Statement Analysis,” LECG Junior Staff Training; San Antonio, TX; January 17-19, 2008.

“Market Design Choices for Ancillary for Ancillary Services Products,” workshop at EUCI conference, Minneapolis, MN; September 12, 2007, with Cliff W. Hamal.

“Reliability, Ancillary Service Markets and Scarcity Pricing,” presented at EUCI conference, Minneapolis, MN; September 11, 2007; authored by Scott M. Harvey.

“LECG Junior Staff Overview: How to Survive and Thrive as a Junior in a Consulting Environment,” Washington, DC; September 2006, June and September 2007, June and December 2008, and October 2009.

LECG Summer Seminar Series: Daubert and Economic Experts, Mock Daubert hearing, July 9, 2003.

Presentation before the Public Service Commission of South Carolina on behalf of Citizens for a Sound Economy, Hearings on Deregulation, August 1997.

“Voluntary Redistribution by Predatory Individuals Under Alternative Social Contracts,” workshop in Public Finance, Clemson University, October 1996.

AWARDS, HONORS, AND ACTIVITIES:

- United States Association for Energy Economics (2009 to present)
- International Association for Energy Economics (2009 to present)
- WCEE (2009-10)
- American Bar Association (2004 to present)
- American Economic Association (2001 to present)
- Close Fellowship (1994–96)
- Macaulay Award for Outstanding Performance by a Graduate Student in Economics (1993–94)
- Earhart Fellowship (1993–94)