

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Eversource Energy	)	Docket No. ER26-2389-000
ISO New England Inc.	)	

INITIAL PAPER HEARING BRIEF OF ACADIA CENTER

AUGUST 28, 2026

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SUMMARY OF ARGUMENT	2
III.	ARGUMENT	6
A.	Conflation of Holding-Company Equity Returns with the Cost of Equity for the Regulated Transmission Claim	6
B.	Asymmetric Application of the Proxy-Group Screening Criteria	9
C.	Inclusion of Non-Comparable Proxy Companies: Algonquin Power & Utilities and Otter Tail Corporation.....	13
D.	Asymmetric Application of the Natural-Break Test.....	16
E.	Market-Return Estimate and the Resulting Equity Risk Premium	19
F.	Size Adjustment	25
G.	The Choice Between Value Line and Bloomberg Betas	28
H.	Treatment of Bond-Yield Trends.....	32
I.	Use of Sell-Side Research.....	35
J.	The Hope/Bluefield Standard	36
K.	Quantitative Synthesis	38
IV.	CONCLUSION.....	45

CERTIFICATE OF SERVICE

TABLE OF AUTHORITIES

Cases	Page
<i>Alabama Power Co. v. FERC</i> , 993 F.2d 1557 (D.C. Cir. 1993)	2
<i>Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia</i> , 262 U.S. 679 (1923)	5, 31, 35
<i>Emera Me. v. FERC</i> , 854 F.3d 9 (D.C. Cir. 2017)	4, 33
<i>Federal Power Commission v. Hope Natural Gas Co.</i> , 320 U.S. 591 (1944) ...	5, 19-20, 31, 35-37
<i>Pac. Gas & Elec. Co. v. FERC</i> , 306 F.3d 1112 (D.C. Cir. 2002)	4
<i>Pub. Serv. Comm’n of N.Y. v. FERC</i> , 642 F.2d 1335 (D.C. Cir. 1980).....	4
 Statutes	
16 U.S.C. § 824d	2, 5, 44, 46
 FERC Orders and Decisions	
<i>Ass’n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.</i> , Opinion No. 569, 169 FERC ¶ 61,129 (2019), order on reh’g, Opinion No. 569-A, 171 FERC ¶ 61,154 (2020), order on reh’g, Opinion No. 569-B, 173 FERC ¶ 61,159 (2020).....	1, 29
<i>Coakley v. Bangor Hydro-Electric Co.</i> , Opinion No. 531, 147 FERC ¶ 61,234 (2014)	33
<i>Coakley v. Bangor Hydro-Electric Co.</i> , Opinion No. 594, 194 FERC ¶ 61,208 (Mar. 19, 2026)	1-3, 12-13, 19, 23-24, 27, 31, 37-38, 40, 42-46
<i>Order Accepting and Suspending Tariff Revisions, and Establishing Paper Hearing Procedures</i> , 195 FERC ¶ 61,258 (June 29, 2026)	1
<i>Southwest Power Pool, Inc., GridLiance High Plains LLC</i> , 180 FERC ¶ 61,192 (2022).....	2
 Record Materials	
Connecticut Industrial Energy Consumers, <i>Protest of the Connecticut Industrial Energy Consumers</i> , Docket No. ER26-2389-000 (FERC May 21, 2026)	29
Consumer Advocates, <i>Joint Protest of the Identified Consumer Advocates</i> , Docket No. ER26-2389 (FERC May 21, 2026).....	29

Hanser, Philip Q., <i>Affidavit of Philip Q. Hanser in Response to the Testimony of Adrien M. McKenzie (Exhibit No. PTO-100) on Behalf of Acadia Center</i> , Ex. No. AC-100, Docket No. ER26-2389-000 (FERC Aug. 28, 2026)	<i>passim</i>
Lesser, Jonathan A., <i>Affidavit on Behalf of the New England Consumer-Owned Systems</i> , Ex. No. NEC-001, Docket No. ER26-2389-000 (FERC May 21, 2026)	29
Maine Office of the Public Advocate, <i>Protest and Request for Partial Summary Disposition</i> , Docket No. ER26-2389-000 (FERC May 21, 2026)	29
McKenzie, Adrien M., <i>Direct Testimony and Exhibits of Adrien M. McKenzie, CFA on Behalf of the Participating Transmission Owners Administrative Committee</i> , Ex. No. PTO-100, Docket No. ER26-2389-000 (FERC Apr. 30, 2026)	<i>passim</i>
New England Consumer-Owned Systems & Energy New England, LLC, <i>Motion to Intervene, Protest and Request for Evidentiary Hearing</i> , Docket No. ER26-2389-000 (FERC May 21, 2026)	29
New England Transmission Owners, <i>Motion for Leave to Answer and Answer of the New England Transmission Owners</i> , Docket No. ER26-2389 (FERC June 5, 2026).....	6
Participating Transmission Owners Administrative Committee, <i>Proposed Revisions to Attachment F of the ISO New England Inc. Open Access Transmission Tariff to Update the Return on Equity</i> , Docket No. ER26-2389 (FERC Apr. 30, 2026)	2
Public Systems, <i>Motion to Intervene and Protest</i> , Docket No. ER26-2389-000 (FERC May 21, 2026)	29
State Entities, <i>Protest and Request for Maximum Suspension, Refund Protection, and Hearing and Settlement Procedures</i> , Docket No. ER26-2389-000 (FERC May 21, 2026)	29
Other Authorities	
Adrian, Tobias, Richard K. Crump & Emanuel Moench, <i>Regression-Based Estimation of Dynamic Asset Pricing Models</i> , 118 J. Fin. Econ. 211 (2015)	31
Alquist, Ron, Ronen Israel & Tobias J. Moskowitz, <i>Fact, Fiction, and the Size Effect</i> , 45 J. Portfolio Mgmt. 34 (2018).....	25
Damodaran, Aswath, <i>Corporate Finance: Lecture Note Packet I—Management Objectives and Investment Analysis</i> (N.Y.U. Stern Sch. of Bus., Spring 2026)	5

Damodaran, Aswath, <i>Data Update 2 for 2026: Equities Get Tested, and Pass Again!</i> , Musings on Markets (Jan. 23, 2026)	21-22, 25, 31-32, 41, 49
Damodaran, Aswath, <i>Implied Equity Risk Premium by Month</i> , N.Y.U. Stern Sch. of Bus.	22
Duarte, Fernando & Carlo Rosa, <i>The Equity Risk Premium: A Review of Models</i> , 21 Fed. Rsrv. Bank N.Y. Econ. Pol’y Rev. 39 (2015)	31
Hamada, Robert S., <i>The Effect of the Firm’s Capital Structure on the Systematic Risk of Common Stocks</i> , 27 J. Fin. 435 (1972)	8
ISO-NE, Transmission, Mkts., and Servs. Tariff, § II, attach. F, app. A (ATRR Template), worksheet 2, note (b) (31.0.0)	2
J.P. Morgan Asset Management, <i>2026 Long-Term Capital Market Assumptions: Time-Tested Projections to Build Stronger Portfolios</i> (2025)	22, 41
Kroll, <i>Recommended U.S. Equity Risk Premium and Corresponding Risk-Free Rates to Be Used in Computing Cost of Capital: January 2008–Present</i> (Apr. 30, 2026)	23-25, 41
Otter Tail Corp., Annual Report (Form 10-K) (fiscal year ended Dec. 31, 2025) (filed Feb. 18, 2026).....	15
Rode, David C. & Paul S. Fischbeck, <i>Regulated Equity Returns: A Puzzle</i> , 133 Energy Pol’y 110891 (2019).....	7, 24, 32-33, 36-37
Shumway, Tyler, <i>The Delisting Bias in CRSP Data</i> , 52 J. Fin. 327 (1997)	25
van Dijk, Mathijs A., <i>Is Size Dead? A Review of the Size Effect in Equity Returns</i> , 35 J. Banking & Fin. 3263 (2011)	25

TABLE OF EXHIBITS

Exhibit No.	Sponsoring Party	Description
AC-100	Philip Q. Hanser	Affidavit of Philip Q. Hanser in Response to the Testimony of Adrien M. McKenzie (Exhibit No. PTO-100), including Attachment A, Curriculum Vitae
AC-101	Philip Q. Hanser	Attachment B: Supporting Workpapers of Philip Q. Hanser and Reproduced Source Material, including native Excel workpapers

GLOSSARY OF TERMS

TERM	DEFINITION
Bloomberg	Bloomberg Terminal / Bloomberg Professional Service
CAPM	Capital Asset Pricing Model
Commission	Federal Energy Regulatory Commission
CRSP	Center for Research in Security Prices
DCF	Discounted Cash Flow
EPS	Earnings Per Share
ERP	Equity Risk Premium
FPA	Federal Power Act
GDP	Gross Domestic Product
IBES	Institutional Brokers' Estimate System
ISO-NE	ISO New England
MRP	Market Risk Premium
NETOs	Central Maine Power Company, Eversource Energy Service Company, on behalf of The Connecticut Light and Power Company, NSTAR Electric Company, and Public Service Company of New Hampshire, Fitchburg Gas and Electric Light Company, The Narragansett Electric Company d/b/a Rhode Island Energy, New England Power Company d/b/a National Grid, New Hampshire Transmission, LLC, The United Illuminating Company, Unitil Energy Systems, Inc., and Versant Power.
OATT	Open Access Transmission Tariff
PTOs	NETOs <i>plus</i> Chicopee Municipal Lighting Plant; Connecticut Municipal Electric Energy Cooperative; Connecticut Transmission Municipal Electric Energy Cooperative; Green Mountain Power Corporation; Maine Electric Power Company; Massachusetts Municipal Wholesale Electric Company; New Hampshire Electric Cooperative, Inc.; Shrewsbury Electric and Cable Operations; Taunton Municipal Lighting Plant; The City of Holyoke Gas and Electric Department; Town of Braintree Electric Light Department; Town of Hudson Light and Power Department; Town of Middleborough Gas & Electric Department; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; Town of Wallingford, CT, Department of Public Utilities, Electric Division; Vermont Electric Cooperative, Inc.; Vermont Electric Power Company, Inc.; and Vermont Transco LLC.

PTO AC	Participating Transmission Owners Administrative Committee
ROE	Return on Equity
Value Line	Value Line Investment Survey

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Eversource Energy	)	Docket No. ER26-2389-000
ISO New England Inc.	)	

INITIAL PAPER HEARING BRIEF OF ACADIA CENTER

I. INTRODUCTION

Pursuant to the Commission’s Order Accepting and Suspending Tariff Revisions, and Establishing Paper Hearing Procedures dated June 29, 2026,¹ Acadia Center hereby respectfully submits its Initial Paper Hearing Brief to address the issue of the PTO AC’s application of the Commission’s revised return on equity (“ROE”) methodology, as developed in Opinion Nos. 569 *et seq.*² and 594³ (the “Opinion 594 Methodology”).

Acadia Center accepts the Opinion 594 Methodology as the governing framework for deriving the base ROE in this proceeding, and in further compliance with the Commission’s June 29 Order relies on financial data from the six-month study period of October 1, 2025, to March 31, 2026, to consider the determination of a just and reasonable base ROE in accordance with that methodology.⁴

¹ Order Accepting and Suspending Tariff Revisions, and Establishing Paper Hearing Procedures, 195 FERC ¶ 61,258 (June 29, 2026) (“June 29 Order”)

² *Ass’n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Opinion No. 569, 169 FERC ¶ 61,129 (2019), order on reh’g, Opinion No. 569-A, 171 FERC ¶ 61,154 (2020), order on reh’g, Opinion No. 569-B, 173 FERC ¶ 61,159 (2020).

³ *Coakley v. Bangor Hydro-Electric Co.*, Opinion No. 594, 194 FERC ¶ 61,208 (Mar. 19, 2026) (“Opinion No. 594”).

⁴ June 29 Order ¶ 48.

II. SUMMARY OF ARGUMENT

As the proponent of a filing under Section 205 of the FPA,⁵ the PTO AC bears the burden of proof in this proceeding.⁶ The PTO AC's arguments in favor of its proposed revision of the ISO-NE OATT⁷ to increase the allowed base ROE from 9.57 percent to 11.39 percent fail to carry its burden of proving the adjustment is just and reasonable as Section 205 requires,⁸ and thus lawful.

The PTO AC's claims in favor of the lawfulness of the proposed 11.39 percent base ROE rest on its assertion that it has applied the methodology that the Commission approved in Opinion No. 594 "with exacting precision, only updating data to reflect current market conditions" to derive it.⁹ The PTO AC thus casts the Commission's Opinion 594 Methodology as a mechanical formula that does not admit discretion but requires specified inputs culled from current market data. The Commission's Opinion 594 Methodology is not a self-executing formula, however, but a framework that requires the exercise of judgment in selecting and implementing model inputs, screening results, and weighing competing methodologies.¹⁰ Opinion No. 594 confirms this: the Commission evaluated proxy-group membership based on comparability, applied its natural-break outlier analysis on the facts of the particular distribution,

⁵ 16 U.S.C. § 824d.

⁶ See *Alabama Power Co. v. FERC*, 993 F.2d 1557, 1571 (D.C. Cir. 1993) ("the party filing a rate adjustment with the Commission under § 205 bears the burden of proving the adjustment is lawful"); *Southwest Power Pool, Inc., GridLiance High Plains LLC*, 180 FERC ¶ 61,192 at PP 52–53 (2022) (summarizing the burden of proof framework in a section 205 proceeding).

⁷ The PTOs propose revising the Annual Transmission Revenue Requirements (ATRR) Template found in Appendix A to Attachment F of the OATT. ISO-NE, Transmission, Mkts., and Servs. Tariff, § II, attach. F, app. A (ATRR Template), worksheet 2, note (b) (31.0.0).

⁸ 16 U.S.C. § 824d(e) — "the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility."

⁹ *Participating Transmission Owners Administrative Committee, Proposed Revisions to Attachment F of the ISO New England Inc. Open Access Transmission Tariff to Update the Return on Equity* 6, Docket No. ER26-2389 (FERC Apr. 30, 2026).

¹⁰ See, e.g., *Opinion No. 594*, 194 FERC ¶ 61,208 at ¶¶ 161, 268, 336–37, 349, 359–61, 390 (2026).

considered alternative sources for CAPM betas, and selected among competing growth-rate inputs used to estimate the expected market return.¹¹

The PTO AC cannot establish that its proposed ROE is just and reasonable because its application of the methodology detailed by the Commission in Opinion No. 594 is not impartial.¹² As set out in the Affidavit of Philip Q. Hanser (Ex. No. AC-100; the “Hanser Affidavit”), Adrien M. McKenzie, the PTO AC’s ROE expert and sponsor of Exhibit No. PTO-100, resolved choices regarding inputs to the capital asset pricing model (“CAPM”)—the estimated market risk premium (“MRP”), the selection of the beta source, and the size adjustment—that together account for the bulk of the gap between his 11.39 percent base ROE recommendation and the 9.57 percent base ROE determination the Commission reached in Opinion No. 594.¹³ The Hanser Affidavit further establishes that the critique of McKenzie’s application of the Opinion 594 Methodology is methodological rather than period-based: the deficiencies in his analysis are present within his own chosen study period and would persist under any reasonable alternative period.¹⁴

McKenzie proposes 11.39 percent as the proper value for the base ROE because it is the midpoint of the 9.89 percent to 12.89 percent zone of reasonableness derived by his application of the Opinion 594 Methodology.¹⁵ Applying the Commission’s Opinion 594 Methodology in the manner described in the Hanser Affidavit produces a base ROE of 9.32 percent—well below

¹¹ See Opinion No. 594, 194 FERC ¶ 61,208 at PP 144–49, 258 & n.582, 261, 283–84, 447–58 (2026)

¹² “...Mr. McKenzie did not evenhandedly apply the Commission’s methodology.” Philip Q. Hanser, *Affidavit of Philip Q. Hanser in Response to the Testimony of Adrien M. McKenzie (Exhibit No. PTO-100) on Behalf of Acadia Center*, Docket No. ER26-2389-000, at 7:7-8 (FERC August 28, 2026) (“Hanser Aff.”).

¹³ Hanser Aff. at 6:20–23, 7:1-2.

¹⁴ Id. at 6:7-12.

¹⁵ Adrien M. McKenzie, *Direct Testimony and Exhibits of Adrien M. McKenzie, CFA on Behalf of the Participating Transmission Owners Administrative Committee*, Ex. No. PTO-100, Docket No. ER26-2389-000, at 10:1-3 (FERC Apr. 30, 2026) (the “McKenzie Testimony”).

the 11.39 percent that McKenzie recommends.¹⁶ That 9.32 percent base ROE is the midpoint of the 7.98 percent to 10.66 percent zone of reasonableness derived by Hanser’s application of the Opinion 594 Methodology.¹⁷ The bounds of the zone of reasonableness have substantive legal significance: an ROE outside a properly determined zone of reasonableness cannot be sustained as just and reasonable.¹⁸ The Hanser Affidavit details how the zone of reasonableness derived by McKenzie’s application of the Commission’s Opinion 594 Methodology is flawed by defects that undermine the integrity and evenhandedness of the analysis,¹⁹ and CAPM input choices that directly inflate the numerical ROE result.²⁰ Hanser’s derivation of the zone of reasonableness, on the other hand, faithfully applies the Commission’s Opinion 594 Methodology. In addition to accepting the Opinion 594 Methodology as the governing framework²¹ and applying it to the Commission-specified study-period data,²² Hanser accepts the two-step DCF and CAPM as the two models comprising the Opinion 594 methodology, leaves McKenzie’s two-step DCF midpoint unchanged, and confines his principal quantitative corrections to inputs within the CAPM,²³ and for his principal result, adopts the Commission’s size adjustment²⁴ and retains

¹⁶ Hanser Aff at 5:8-13.

¹⁷ Id. at 79:6-13.

¹⁸ See *Pac. Gas & Elec. Co. v. FERC*, 306 F.3d 1112, 1116 (D.C. Cir. 2002) (“Absent procedural or methodological flaws, the court may only set aside a rate that is outside a zone of reasonableness”); *Emera Me. v. FERC*, 854 F.3d 9, 19–20 (D.C. Cir. 2017) (explaining that a showing that an existing rate is “entirely outside the zone of reasonableness may illustrate that the existing rate is unlawful”); *Pub. Serv. Comm’n of N.Y. v. FERC*, 642 F.2d 1335, 1350 n.27 (D.C. Cir. 1980).

¹⁹ See *supra* note 12.

²⁰ See *supra* note 13.

²¹ Hanser Aff. at 6:15-16.

²² Id. at 6:3-7.

²³ Id. at 10:10-12 and 69-74.

²⁴ Id. at 57:16-21.

McKenzie’s own proxy group²⁵ while declining to claim adjustments that would favor a lower base ROE when consistency points in the opposite direction.²⁶

Because the PTO AC bears the burden of proof under Section 205, the ultimate question is whether it has demonstrated that its proposed 11.39 percent base ROE is just and reasonable. Hanser’s analysis demonstrates that it has not, because a more faithful application of the Commission’s Opinion 594 methodology produces materially different results.

Subsections III A. through III D. below, corresponding to Sections II through V of the Hanser Affidavit, go to the integrity of McKenzie’s analysis: whether the proxy group and the outlier screens were constructed evenhandedly.

Subsections III E. through III G., corresponding to Sections VI through VIII of the Hanser Affidavit, address the three CAPM inputs that affect the arithmetic outcome: the MRP, the size adjustment, and the beta source. Two of those—the MRP and the beta source—produce the approximately 207-basis-point reduction that yields Hanser’s 9.32 percent base ROE result. Remaining true to the Commission’s Opinion 594 Methodology, Hanser retains the size adjustment that is part of the CAPM specification despite criticizing its contribution to the outcome of the base ROE calculation.

Subsections III H. through III J., corresponding to Sections IX through XI of the Hanser Affidavit, address what Hanser characterizes as the “subsidiary arguments” McKenzie advances to support his recommendation—bond-yield trends, sell-side research, and the *Hope/Bluefield* standard.

²⁵ Id. at 10:13-14.

²⁶ Id. at 23:21-23 and 24:1-3; 74:13-15.

Subsection III K., corresponding to Section XII of the Hanser Affidavit, summarizes the result of the quantitative analysis and shows the cumulative effect of the adjustments Hanser carried.

The balance of this Brief compares the approaches McKenzie and Hanser take in their separate applications of the Commission’s Opinion 594 Methodology and shows that Hanser’s derivation of the zone of reasonableness bears closer fidelity to the Commission’s methodology and therefore provides the better-supported measure of the range of reasonable returns. Because McKenzie’s proposed 11.39 percent base ROE lies above the upper bound of that properly determined zone, the PTO AC has not carried its burden under Section 205 to demonstrate that the proposed 11.39 percent ROE is just and reasonable.²⁷

III. ARGUMENT

A. **Conflation of Holding-Company Equity Returns with the Cost of Equity for the Regulated Transmission Claim**

McKenzie’s measurement of the PTOs’²⁸ cost of equity rests on the premise that the cost of equity capital for the PTOs is appropriately measured by the expected return on the publicly traded common stock of a proxy group of twenty-six diversified electric utility holding companies.²⁹ As FERC-jurisdictional transmission operating entities whose allowed return is collected through formula rates with annual true-ups, the systematic risk borne by claims on PTOs’ cash flows is materially lower than the risk borne by holding-company common equity.³⁰

²⁷ See *supra* note 18.

²⁸ NETOs, the collective litigation shorthand historically used for the transmission owners involved in New England ROE proceedings, including this proceeding, together “own the vast majority of the electric transmission facilities in New England,” and are a subset of the PTOs. See New England Transmission Owners, *Motion for Leave to Answer and Answer of the New England Transmission Owners*, Docket No. ER26-2389, n. 2 (FERC June 5, 2026). This Brief refers to NETOs as “PTOs” throughout, following the usage adopted in the Hanser Affidavit.

²⁹ Hanser Aff. at 12:16-19; see also McKenzie Testimony at 11:3–10, 16:17–18.

³⁰ Id. at 12:21-24 and 13:1-3.

Because the proxy group is built from diversified holding companies, both the beta³¹ that the McKenzie Testimony adopts and the small-company size premium it adds are measured on the wrong entity (i.e., not the PTOs, which bear materially lower risk but holding companies, which bear higher risk).³² That premise is not, however, the largest single error in the McKenzie Testimony. That distinction belongs to its overstatement of the MRP, addressed in Subsection E below.³³

The concern that diversified holding-company equity returns overstate the cost of equity for regulated transmission companies like the PTOs is recognized in financial literature: it is the well-recognized “pure-play” problem in regulatory cost-of-capital analysis.³⁴ The effects of the pure-play problem have been documented empirically. Rode and Fischbeck, for example, found that, across 653 electric utility rate cases decided since 2000, the 172 involving transmission and distribution assets carried authorized returns approximately 60 basis points below those in vertically integrated cases over the same period.³⁵ What Rode and Fischbeck establish is that regulators presented with a transmission and distribution claim (i.e. a pure play), and with an integrated utility, have priced the former below the latter³⁶. McKenzie’s proxy group assumes the opposite.³⁷

³¹ “[Beta] is a measure of the non-diversifiable risk for any asset can be measured by the covariance of its returns with returns on a market index...” Aswath Damodaran, *Corporate Finance: Lecture Note Packet 1—Management Objectives and Investment Analysis* 101 (N.Y.U. Stern Sch. of Bus., Spring 2026), <https://pages.stern.nyu.edu/~adamodar/pdfiles/cfovhd/cfpacket1spr26.pdf>

³² Hanser Aff. at 13:9-12.

³³ Id. at 13:14-18.

³⁴ Id. at 14: 4-5.

³⁵ David C. Rode & Paul S. Fischbeck, *Regulated Equity Returns: A Puzzle*, 133 Energy Pol’y 110891 (2019), <https://doi.org/10.1016/j.enpol.2019.110891> Summarized in Hanser Aff. at 15:9-12 and note 9.

³⁶ Hanser Aff. at 15:13-15.

³⁷ Id. at 15:15-16

McKenzie's use of credit ratings bears on the same problem.³⁸ Exhibit PTO-103 lists the PTOs' credit ratings on page 1 and the credit ratings of twenty-six companies on page 2, twenty-four of which are holding companies.³⁹ Every rated PTO on page 1 carries a Moody's rating of Baa1 or better; by contrast, fifteen of the twenty-five rated proxy companies on page 2 carry a rating of Baa2.⁴⁰ The proxy group is not merely different from the PTOs in this respect; it is *systematically* less creditworthy.⁴¹ This systematic difference is what the pure-play problem predicts.⁴²

McKenzie should have measured the proxy companies' credit at the same organizational level at which he measured the PTOs' credit.⁴³ A consistent analysis would have either screened the proxy companies on the issuer ratings of their regulated operating subsidiaries or, if it retained the holding-company ratings, acknowledged that the proxy group is lower-credit and thus higher-risk than the PTOs and adjusted for that difference.⁴⁴ McKenzie took neither approach.⁴⁵

A defensible analysis would unlever the proxy-group equity betas (using the Hamada relation)⁴⁶ to remove the effect of parent-level financial leverage, re-leverage them to a capital

³⁸ Id. at 16:2.

³⁹ Id. at 16:3-18; *see also* McKenzie Testimony at 11:21-27, 12:3-17; Ex. PTO-103.

⁴⁰ Id. at 17:4-5.

⁴¹ Id. at 17:7-8.

⁴² Id. at 17:10.

⁴³ Id. at 18:11-12.

⁴⁴ Id. at 18:17-23, 19:1-2.

⁴⁵ Id. at 19:3.

⁴⁶ Financial leverage magnifies the volatility of equity returns, so two firms with identical operating risk will show different equity betas if they are financed differently. The Hamada relation separates the two effects: $\beta_L = \beta_U [1 + (1 - t)(D/E)]$, where β_L is the levered (observed) equity beta, β_U the unlevered asset beta, t the marginal corporate tax rate, and D/E the market-value ratio of debt to equity. Solving for β_U removes the effect of the observed capital structure ("unlevering"); re-levering applies the relation in reverse at the capital structure of the entity being measured. *See* Robert S. Hamada, *The Effect of the Firm's Capital Structure on the Systematic Risk of Common Stocks*, 27 J. Fin. 435 (1972).

structure representative of the PTOs (the regulated transmission claim) and further adjust for the non-transmission holding company business mix.⁴⁷ The McKenzie Testimony makes no such adjustments.⁴⁸

Hanser illustrates the mechanism. Re-levering the asset beta implied by the proxy-group average Value Line beta to a 50/50 debt-to-equity capital structure, representative of the capital structures the Commission has accepted in transmission formula rates, returns a beta of approximately 0.72—roughly 0.06 below the holding-company figure the testimony uses.⁴⁹ At the 8.91 percent MRP McKenzie applies, that adjustment alone would lower the CAPM result by approximately 56 basis points on the Value Line beta and by approximately 43 basis points on the Bloomberg beta of 0.60.⁵⁰ Hanser offers those figures as an illustration of the mechanism rather than as a correction, and he expressly withdraws the leverage adjustment: tested against four proxy companies' reported capitalizations, its sign turns on whether book or market capital structures are used, and he therefore claims nothing for it. Acadia Center likewise claims no basis-point reduction on this ground. The business-mix half of the problem, which that test does not reach, is unaffected.⁵¹

B. Asymmetric Application of the Proxy-Group Screening Criteria

McKenzie does not apply his proxy-group screening principles consistently, and that inconsistency undermines confidence in his analysis.

⁴⁷ Hanser Aff. at 19:10-13.

⁴⁸ Id. at 19:13.

⁴⁹ Id. at 19:19-23, 20:1

⁵⁰ Id. at 20:1-4

⁵¹ Id. at 20:4-5.

McKenzie excludes five companies—Eversource Energy, Edison International, Black Hills, NorthWestern, and TXNM Energy.⁵² Eversource is excluded because of a discrete event: the November 2025 rejection by the Connecticut Public Utilities Regulatory Authority of its planned sale of Aquarion caused a sharp decline in Eversource’s share price, distorting the DCF inputs.⁵³ The premise carried by that ground is that the distortion pushed Eversource’s DCF result upward, away from the range of results McKenzie regards as representative of the proxy group.⁵⁴ Computed on McKenzie’s own basis, however, the Aquarion event moved Eversource’s result in the opposite direction:⁵⁵ it yields a two-step DCF result for Eversource of 9.03 percent.⁵⁶ That makes Eversource the *lowest* observation in the proxy group.⁵⁷ Restoring Eversource would thus move the lower endpoint of the proxy group’s two-step DCF range downward, not the higher end of the DCF range upward as McKenzie expected.⁵⁸ Moreover, Hanser emphasizes that the Aquarion event pushed Eversource’s DCF result upward to 9.03 percent from an even lower value—8.75 percent—because the decline in the share price that followed the decision increased Eversource’s dividend yield.⁵⁹ The event thus does not justify excluding Eversource based on McKenzie’s rationale⁶⁰.

Edison International is excluded on the same basis as Eversource Energy: a discrete event that lowered its stock price. Edison’s share price collapsed in early 2025 following catastrophic

⁵² Id. at 21:13-14; *see also* McKenzie Testimony at 13:15–20, 14:5–11, 15:1–5, 16:11–14.

⁵³ McKenzie Testimony at 14:5–11, 15:1–5 & fig. AMM-3; *see also* Hanser Aff. at 22:4–13.

⁵⁴ Hanser Aff. at 22:11-13.

⁵⁵ Id. at 22:13.

⁵⁶ Id. at 22:22.

⁵⁷ Id. at 23:12-14

⁵⁸ Id. at 23:14-15

⁵⁹ Id. at 23:16-19

⁶⁰ “A screen [Eversource exclusion] defended as removing an upward distortion has been applied to the one observation that the distortion [Aquarion event] moved upward [to 9.03 percent] from a lower value still [8.75 percent], and that sets the floor of the range either way.” Id. at 23:20-23.

wildfires in its service territory and subsequent litigation.⁶¹ Per McKenzie, Edison's post-event two-step DCF result would have been 14.82 percent.⁶² In principle, then, regardless of the upward or downward effect on their DCF results, both companies are excluded because a discrete event distorted each company's market data during the study period.⁶³ This, Hanser says, is "defensible on its own terms."⁶⁴

The asymmetry in the application by McKenzie of his proxy group screening criteria is evident in its application to Eversource and Edison International and its *non*-application to Algonquin Power & Utilities, which is retained in the proxy group even though its market-data distortion is both larger and more sustained than either Eversource's or Edison International's.⁶⁵ Moreover, Algonquin departs from McKenzie's criteria in ways "that no other [proxy] company does": it is not a member of any Value Line Electric Utility group (the first of McKenzie's three stated screening criteria); it carries no Moody's rating (so that only one of the two agency ratings the Commission directs be considered independently is available for it); and roughly 18 percent of its revenues are earned outside the United States. No discrete-event screen is applied to Algonquin.⁶⁶

Applied consistently, the screening logic would have retained Eversource and excluded Algonquin: Eversource, itself a PTO, would have been the most directly comparable member of the proxy group, while Algonquin is the least. Nevertheless, McKenzie dispenses with Eversource and retains Algonquin.⁶⁷

⁶¹ McKenzie Testimony at 15:8–11, 16:1–14; *see also* Hanser Aff. At 24:11–12.

⁶² McKenzie Testimony at 16 n.24; *see also* Hanser Aff. at 24:12–13.

⁶³ Hanser Aff. at 25:3–4.

⁶⁴ *Id.* at 25:4–5.

⁶⁵ *Id.* at 25:6–7.

⁶⁶ *Id.* at 25:9–15.

⁶⁷ *Id.* at 25:15–19.

Hanser's objection to retaining Algonquin does not, however, rest on the uneven application of the discrete-event exclusion criteria alone. McKenzie could respond that a five-year decline is not a transient distortion but the market's considered repricing of genuine risk.⁶⁸ Hanser need not prevail on that characterization, because Algonquin independently fails the first of McKenzie's three screening criteria—it is included in none of Value Line's Electric Utility groups—and it is unrated by Moody's, so that only one of the two agency ratings the Commission directs be considered independently is available for it.⁶⁹

Notably, Hanser does not contend that a consistent application of McKenzie's proxy screening would reduce the ROE; rather, he contends that McKenzie applies his proxy exclusion criteria unevenly, and Hanser demonstrates this even though applying McKenzie's criteria consistently would in fact raise the composite ROE.⁷⁰

Applying the screening criteria evenhandedly would result in Edison International's inclusion in the proxy group, and would make the impact of McKenzie's analytical choices clear.⁷¹ Edison's inflated beta illustrates the risk inherent in relying on holding company betas as a proxy group measure of the risk associated with the PTOs as pure-play transmission companies—such betas “overstate the risk of the transmission claim.”⁷² Additionally, Edison's high-end CAPM observation in the proxy group is an artifact of McKenzie's parameter choices—Value Line betas: it becomes an unremarkable mid-range CAPM observation applying Bloomberg betas.⁷³

⁶⁸ Id. at 26:3-5.

⁶⁹ Id. at 26:6-10.

⁷⁰ Id. at 23:15-21, 24:14-22, 25: 7-16.

⁷¹ Id. at 29:17-18.

⁷² Id. at 29:20-22.

⁷³ Id. at 30:3-10.

C. Inclusion of Non-Comparable Proxy Companies: Algonquin Power & Utilities and Otter Tail Corporation

McKenzie includes Algonquin Power & Utilities Corporation in the proxy group despite the company's failure to meet the screening criteria he otherwise applies⁷⁴ because, according to his testimony, "investors would regard Algonquin as a comparable investment alternative."⁷⁵ McKenzie also notes that in Opinion No. 594 the Commission included a statement that Algonquin should be considered in evaluating investors' cost of equity for the PTOs.⁷⁶ The statement, however, was made on the record that was then before the Commission regarding study periods that ended more than a decade before the study period specified by the Commission for this proceeding, and the statement did not establish an entitlement to future inclusion irrespective of what Algonquin's data in a later period might show.⁷⁷ Additionally, the screening criterion Algonquin fails—membership in a Value Line Electric Utility group—is the first of the three stated by McKenzie, and nothing in Opinion No. 594 suspends it.⁷⁸

Algonquin's current financial profile makes it a poor comparable for the proxy group: its five-year total return is -61.3 percent, its current ROE is 4.0 percent, and its 13.0 percent long-term EPS-growth forecast reflects recovery from a depressed earnings base rather than a sustainable cost of equity for a comparable-risk transmission investment.⁷⁹ Algonquin also has notably thin analyst coverage.⁸⁰

Retaining Algonquin, these reasons for excluding it notwithstanding, materially affects the high end of McKenzie's results—it produces the highest two-step DCF estimate, 15.62

⁷⁴ See *supra* note 65.

⁷⁵ McKenzie Testimony at 13:3–12; see also Hanser Aff. at 30:15–21.

⁷⁶ Hanser Aff. at 31:2–4.

⁷⁷ Id. at 31:5–8.

⁷⁸ Id. at 31:11–13.

⁷⁹ Id. at 31:16–21, 32:1–4. Algonquin

⁸⁰ Id. at 32:1–4.

percent, and the highest Value Line size-adjusted CAPM estimate, 14.33 percent.⁸¹ In the two-step DCF and in the Value Line CAPM, Algonquin's position at the high end leads, however, to its subsequent exclusion under the "natural break" test—that is, the measure of its material mathematical distance from the next lower member of the proxy group.⁸²

Although Algonquin is ultimately removed from the proxy group by McKenzie's natural-break test, Algonquin's initial inclusion still matters because it has a lasting effect on the parameters of the natural-break test itself: Algonquin inflates the medians that anchor the high-end thresholds, thereby setting the gaps between proxy group members on which the natural-break test then operates to determine subsequent outlier exclusions.⁸³ Those effects on the formation of the proxy group remain after Algonquin is excluded by the natural-break test. Algonquin is admitted under relaxed criteria, generates extreme high-end observations, and then has those observations removed under a discretionary outlier (natural break) test its inclusion defines. A consistent approach would either exclude Algonquin at the screening stage or retain its results without discretionary trimming.⁸⁴ The primary concern, however, is that Algonquin, a company whose stock lost more than 60 percent of its value over five years, is admitted to a comparable-risk proxy group.⁸⁵

The inclusion of Otter Tail Corporation in the proxy group presents an even greater comparability problem than Algonquin because it establishes the upper endpoint of both of McKenzie's CAPM ranges.⁸⁶

⁸¹ Hanser Aff. at 32:7-15. Notably, under Bloomberg betas, which McKenzie does not use in his analysis, Algonquin's CAPM estimate is appreciably lower—approximately 11.64 percent—and no longer a high-end outlier in the proxy group. See Id. at 32:15-20.

⁸² Id. at 32:20, 33:1-2.

⁸³ Id. at 33:6-9.

⁸⁴ Id. at 33:11-17.

⁸⁵ Id. at 33:17-19.

⁸⁶ Id. at 34:1-12.

Otter Tail survives McKenzie’s initial screen (it is Value Line listed as an electric utility) but it does not satisfy the Commission’s requirement that proxy companies present a risk profile comparable to that of the utilities under consideration, and it should have been excluded on that ground.⁸⁷ While Otter Tail is listed as an electric utility by Value Line it is, unlike the PTOs, which own transmission assets exclusively, a diversified industrial company that comprises an electric utility, a manufacturing business, and a plastics business.⁸⁸ Moreover, it is Otter Tail’s manufacturing and plastics businesses that produce the majority of its revenue, and account for the majority of its employees.⁸⁹ Otter Tail’s nonutility businesses expose it to risks unrelated to regulated transmission-owning franchises operating under a Commission-approved formula rate: cyclical manufacturing markets, customer concentration, competition, and plastics input-price volatility.⁹⁰ Otter Tail’s justification for its diversification—to “produce shareholder returns above the utility industry average”—should on its face, under the Commission’s standard, exclude it as a measure of what a utility must be allowed to earn.⁹¹ Otter Tail has the smallest market capitalization in the proxy group, and a Value Line Safety Rank of 3 and Financial Strength rating of B++, despite being less financially leveraged at the consolidated level than its regulated utility subsidiary.⁹² Otter Tail’s Bloomberg beta of 0.78 is the highest in the proxy group, capturing the systematic market risk of Otter Tail’s industrial businesses rather than regulated-network risk.⁹³

⁸⁷ Id. at 34:15-21.

⁸⁸ Id. at 35:2-6.

⁸⁹ Id. at 35:6-12.

⁹⁰ Id. at 35:18, 36:3.

⁹¹ Id. 36:4-11, quoting Otter Tail Corp., Annual Report (Form 10-K), pt. I, item 1 (Feb. 18, 2026) at 4 <https://www.sec.gov/ix?doc=/Archives/edgar/data/1466593/000146659326000008/ottr-20251231.htm> (“Our strategic diversification positions us to provide earnings, cash flow and dividend growth over long-term investment and economic cycles, and to produce shareholder returns above the utility industry average.”)

⁹² Id. at 36:12-21, 37:1-3.

⁹³ Id. at 37:3-6.

Without Otter Tail, the Value Line CAPM midpoint falls from 11.90 percent to about 11.69 percent, and the Bloomberg midpoint from 10.70 percent to about 10.23 percent; because Otter Tail has no two-step DCF result, the corresponding effect on the Value Line composite is about 11 basis points.⁹⁴ Otter Tail’s inclusion matters because the least comparable member of the proxy group—one that does not meet the Commission’s standard requiring proxy companies to present a risk profile comparable to the regulated transmission-owning franchises under consideration—sets the upper bound of both of McKenzie’s CAPM ranges, and does so only because of McKenzie’s size adjustment.⁹⁵ Without the size adjustment, Otter Tail’s CAPM result would be 12.34 percent, below NextEra and Sempra; McKenzie’s 0.88 percent size premium—the largest in the proxy group—raises Otter Tail to 13.23 percent and makes it the highest result in the range.⁹⁶ The size adjustment thus does more than raise the ROE: it reorders the distribution and places the least comparable company at the point that sets the upper end of the range.⁹⁷

D. Asymmetric Application of the Natural-Break Test

McKenzie criticizes the Commission’s “natural break” test as lacking a financial or empirical foundation and objective parameters but nevertheless applies it to eliminate high-end observations.⁹⁸ In the two-step DCF analysis, McKenzie removes Algonquin at 15.62 percent and Dominion at 13.96 percent because the gaps immediately below them—166 and 141 basis points—are much larger than the next-largest gap of 64 basis points.⁹⁹ McKenzie then applies the same approach to the Value Line CAPM, excluding Algonquin’s 14.33 percent result because

⁹⁴ Id. at 37:12-20, 38:1

⁹⁵ Id. at 38:8-10.

⁹⁶ Id. at 38:12-17.

⁹⁷ Id. 38:17-20.

⁹⁸ The natural break test “is not supported by any financial or empirical foundation.” McKenzie Testimony at 30:10–19; see also Hanser Aff. at 39:3–8.

⁹⁹ McKenzie Testimony at 31:17–23, 32:1–3; see also Hanser Aff. at 39:8–10.

the 110-basis-point gap below it exceeds the next-largest gap of 45 basis points.¹⁰⁰ Hanser does not take exception to McKenzie’s arithmetic, but objects to his selective use of the natural break test—“where he does, and does not, apply it.”¹⁰¹

As Subsection B explains, applying the screening criteria evenhandedly would restore Edison International to the proxy group.¹⁰² Once Edison is restored, the 166-basis-point Algonquin-to-Dominion gap McKenzie cites no longer exists; it becomes two much smaller gaps—80 basis points between Algonquin and Edison and 86 basis points between Edison and Dominion.¹⁰³ With Edison restored, the only remaining candidate high-end DCF break is the 141-basis-point Dominion-to-Entergy gap; applying the test there would retain both Algonquin and Edison, contrary to McKenzie’s result.¹⁰⁴

McKenzie fails to apply the natural-break analysis symmetrically to the bottom of the DCF distribution as well, even though the largest gap in the entire distribution is there: Pinnacle West’s 6.17 percent result lies 303 basis points below Exelon’s 9.20 percent.¹⁰⁵ The 303-basis-point low-end gap is 4.7 times the next-largest gap—substantially more pronounced than the 2.2-to-2.6 ratios underlying McKenzie’s high-end exclusions. Despite the low-end gap being the most extreme break anywhere in the data—by nearly a factor of two over any of the outliers he did remove—it goes without mention by McKenzie.¹⁰⁶ Pinnacle West is excluded under the low-end threshold because 6.17 percent falls below the 7.62 percent floor, but that is a different test and not attributable to a natural break, so Pinnacle West’s exclusion on that basis does not

¹⁰⁰ McKenzie Testimony at 37:3–12; *see also* Hanser Aff. at 39:10–12.

¹⁰¹ Hanser Aff. at 39:16–17.

¹⁰² See *supra* note 70.

¹⁰³ Hanser Aff. at 39:17–21.

¹⁰⁴ Id. 39:21–22, 40:1–3.

¹⁰⁵ Id. at 40:5–7.

¹⁰⁶ Id. at 40:11–13.

answer why the gap-based reasoning that removes Algonquin's 15.62 percent at the top does not equally recommend treating Exelon's 9.20 percent as the lower-bound outlier.¹⁰⁷ In Hanser's view, "[a] symmetric application would have removed additional low-end observations or, more plausibly, declined to apply the test at all."¹⁰⁸

A similar asymmetry is evident in the CAPM specifications: McKenzie applies a natural-break exclusion to the upper end of the Value Line CAPM but does not examine the lower end for comparable breaks.¹⁰⁹ Restoring Edison further undermines McKenzie's high-end natural-break analysis: no upper-end break survives, because the remaining 141-basis-point Dominion-to-Entergy gap is only 1.6 times the next-largest gap—below the roughly two-fold standard on which McKenzie relies.¹¹⁰ There is no upper-end natural break once Edison is restored, but the 4.7-fold gap at the bottom of the distribution remains untouched. The 4.7-fold gap at the bottom of the distribution, by contrast, remains untouched.¹¹¹ The high-end exclusions thus depend on McKenzie's exclusion of Edison, rather than on the distribution's actual gap structure.¹¹²

McKenzie applies the natural-break test to the Value Line CAPM but not to the Bloomberg CAPM—yet the Bloomberg CAPM contains a 93-basis-point gap between Otter Tail's 12.57 percent upper-end result and the next observation. That gap is 2.2 times the next-largest gap of 42 basis points—within the same 2.2-to-2.6 range that justified McKenzie's actual

¹⁰⁷ Id. at 13-17, *citing* McKenzie Testimony, Ex. PTO-104, p. 1, applying a 7.62 percent low-end threshold computed as the six-month average Baa utility bond yield (5.84 percent) plus 20 percent of the CAPM market risk premium (8.91 percent).

¹⁰⁸ Id. at 40:17-19.

¹⁰⁹ Id. at 41:2-6.

¹¹⁰ Id. at 41:6-13.

¹¹¹ Id. at 41:13-15.

¹¹² Id. at 41:15-18.

exclusions.¹¹³ The test is thus applied to the Value Line CAPM that produces the higher result and withheld from the Bloomberg CAPM that produces the lower result.¹¹⁴

Correcting McKenzie's inconsistencies does not reduce his derived ROE: a consistent proxy screening would in fact increase McKenzie's composite ROE by approximately 52 basis points because restoring Edison widens the DCF range upward.¹¹⁵

The inconsistencies and asymmetries in McKenzie's approach discussed in this Subsection D and the previous three Subsections bear on the weight the Commission can place on McKenzie's analysis in deriving the proposed base ROE.¹¹⁶ The Opinion 594 Methodology delegates a series of judgments that it does not otherwise constrain.¹¹⁷ The only discipline on those judgments is the expectation that the criteria governing them will be applied consistently and symmetrically—that is, evenhandedly.¹¹⁸ This Subsection D and the previous three Subsections are a catalog of inconsistencies and asymmetries that betray a lack of evenhandedness.

E. Market-Return Estimate and the Resulting Equity Risk Premium

This Subsection E, together with the following two Subsections, addresses the three CAPM inputs that affect the arithmetic outcome. Two of them—the MRP and the beta source—produce the 207-basis-point reduction that yields the 9.32 percent base ROE the Commission should adopt in lieu of the PTO AC's proposed 11.39 percent.

¹¹³ Id. at 41:19-21, 42:1-4.

¹¹⁴ Id. at 42:4-5; *see* McKenzie Testimony at 37:3-12; Exs. PTO-105, PTO-106.

¹¹⁵ Hanser Aff. at 42:12-15, 43:1-2.

¹¹⁶ Id. at 43:4-5.

¹¹⁷ Id. at 43:5-6.

¹¹⁸ Id. at 43:7-9.

The single most important input in McKenzie’s CAPM analysis is the estimated expected market return: McKenzie estimates a 13.68 percent market return, which, after subtracting the 4.77 percent thirty-year Treasury yield, produces an MRP equal to 8.91 percent.¹¹⁹ This MRP, when multiplied by the proxy-group beta, drives the entire CAPM result: a defensible CAPM analysis thus cannot rest on an indefensible MRP.¹²⁰

The end-result standard in *Federal Power Commission v. Hope Natural Gas Co.*—that the ultimate question is whether the overall rate produced is reasonable, not whether every individual methodological step used to calculate it is theoretically perfect—reserves to the Commission the authority to test whether the overall rate yielded by mechanical inputs like MRP is just and reasonable.¹²¹ The 8.91 percent MRP is not indefensible as arithmetic; it is the faithful output of the Commission’s own market-return method.¹²² For the Commission-prescribed study period, however, the 8.91 percent MRP does not survive the reasonableness review the Commission has always retained.¹²³

The 8.91 percent MRP is derived by applying a constant-growth DCF model to dividend-paying S&P 500 companies using IBES analyst EPS-growth forecasts.¹²⁴ The weighted-average growth input is 12.06 percent, heavily influenced by large technology companies such as Apple, Microsoft, Alphabet, and Meta, whose growth forecasts range from 12.73 percent to 18.34 percent.¹²⁵ The constant-growth DCF model treats those high analyst growth rates as if they

¹¹⁹ Id. at 44:15-18; McKenzie Testimony at 34:1-4, 36:12-14; Ex. PTO-105.

¹²⁰ Hanser Aff. at 44:18-19.

¹²¹ Id. at 45:3-7, citing *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 602-03 (1944).

¹²² Id. at 45:9-10.

¹²³ Id. at 45:10-12.

¹²⁴ Id. at 45:15-16; McKenzie Testimony at 33:13-22, 34:1-4.

¹²⁵ Hanser Aff. at 45:16-20.

continue forever: the model assumes perpetual constant growth, payout ratios, returns on book equity, and price/earnings ratios.¹²⁶ These assumptions become economically implausible when applied to companies expected to grow earnings at 15–18 percent.¹²⁷ An entire equity index cannot grow earnings at approximately 12 percent forever because earnings growing indefinitely faster than the economy would eventually exceed the economy itself.¹²⁸

The McKenzie Testimony acknowledges this difficulty by noting that, absent the screen on growth rates above 20 percent, the weighted-average growth rate would rise to 14.43 percent.¹²⁹ There is an internal inconsistency in McKenzie’s methodology: when calculating the proxy companies’ two-step DCF results, McKenzie does *not* assume analyst growth continues forever; he weights near-term growth at 80 percent and sustainable GDP growth at 20 percent.¹³⁰ But when deriving the S&P 500 market return used in CAPM, McKenzie capitalizes the 12.06 percent analyst growth rate in perpetuity without any comparable taper toward sustainable growth.¹³¹

Applying McKenzie’s own two-step logic to the market-return calculation—allowing unusually high analyst growth to revert toward a sustainable long-term rate—would materially reduce both the expected market return and the MRP.¹³² The inconsistency is therefore not between the testimony and another method, it lies within the McKenzie Testimony’s own use of the two discounted-cash-flow models: that comparison can be made concrete, because

¹²⁶ Id. at 46:3-7.

¹²⁷ Id. at 46:7-9.

¹²⁸ Id. at 56:10-13.

¹²⁹ McKenzie Testimony at 33 n.58; see also Hanser Aff. at 46:13–15.

¹³⁰ Hanser Aff. at 46:16-18, 47:1-2; McKenzie Testimony at 28:4–6.

¹³¹ Hanser Aff. at 47:2-3; McKenzie Testimony at 33:13–22, 34:1–4.

¹³² Hanser Aff. at 47:3-6.

Damodaran applies the same class of model to the same index at the same date and publishes every input.¹³³ Damodaran allows analyst growth for five years and then tapers it to a sustainable 4.18 percent perpetual rate, producing an expected stock-market return of 8.41 percent and an implied premium of 4.23 percent, compared with McKenzie's 13.68 percent market return.¹³⁴ The 527-basis-point difference between McKenzie's 13.68 percent market return and Damodaran's 8.41 percent return is principally a difference in the treatment of long-term growth, not in the underlying market or timing: both use the S&P 500, essentially the same date, and analyst consensus growth estimates.¹³⁵ Damodaran's headline implied equity-risk premium averaged 4.13 percent over the Commission's six-month study period, while another Damodaran specification imposing a sustainable-payout constraint averaged exactly 4.00 percent.¹³⁶

The 4.0 percent MRP derived by Hanser is not simply a selectively rounded-down figure: Damodaran's four trailing-cash-flow formulations average between 3.62 percent and 4.38 percent over the study period, and Hanser's corrected composite ROE changes only from 9.21 percent to 9.44 percent across that entire range.¹³⁷ Other institutional evidence is still lower. J.P. Morgan's 2026 Long-Term Capital Market Assumptions forecast a 6.7 percent return on U.S. large-cap equities and a 4.9 percent return on long Treasuries, implying an MRP of approximately 1.8 percent; none of these forward-looking benchmarks approaches the McKenzie Testimony's 8.91 percent.¹³⁸ A roughly 4 percent MRP is not unusually low historically:

¹³³ Id. at 47:6-10, Aswath Damodaran, *Data Update 2 for 2026: Equities Get Tested, and Pass Again!*, Musings on Markets (Jan. 23, 2026), <https://aswathdamodaran.blogspot.com/2026/01/data-update-2-for-2026-equities-get.html>.

¹³⁴ Hanser Aff. at 47:10-18.

¹³⁵ Id. at 47:18-22.

¹³⁶ Id.:14-18, *citing* Aswath Damodaran, Implied Equity Risk Premium by Month, N.Y.U. Stern Sch. of Bus.

¹³⁷ Id. at 48:18-23.

¹³⁸ Id. at 49:3-9, 50:1.

Damodaran's implied-premium series averaged approximately 4.25 percent from 1960 through 2025, whereas McKenzie's 8.91 percent figure is more than twice that long-run average.¹³⁹ The basis for relying on Damodaran is that his implied ERP is, like the CAPM input at issue, a required-return measure derived from the relationship between market price and expected cash flows; he cites asset managers' forecasts primarily as corroboration that forward-looking market expectations are far below 8.91 percent.¹⁴⁰ Damodaran's premium is measured against the ten-year Treasury yield: Damodaran's 4.13 percent premium against the McKenzie Testimony's higher thirty-year Treasury yield would produce only about 3.48 percent; thus the 4.0 percent MRP adopted by Hanser is actually above that like-for-like figure.¹⁴¹

Substituting the 4.0 percent MRP adopted by Hanser while holding the McKenzie Testimony's other inputs constant lowers the Value Line CAPM midpoint from 11.90 percent to approximately 8.40 percent and lowers the composite Opinion No. 594 ROE from 11.39 percent to approximately 9.64 percent—a rate essentially equivalent to the 9.57 percent level the Commission adopted in its Opinion No. 594.¹⁴²

At the lower MRP, the dispersion among CAPM observations also contracts enough that McKenzie's 110-basis-point natural break for excluding Algonquin shrinks to only 37 basis points; Hanser therefore retains Algonquin, which *raises* rather than lowers Hanser's corrected CAPM result by approximately 18 basis points.¹⁴³

The MRP is the most consequential disputed input: correcting it alone accounts for most of the difference between McKenzie's proposed 11.39 percent and the Commission's existing

¹³⁹ Id. at 50:1-8.

¹⁴⁰ Id. at 50:15-20.

¹⁴¹ Id. 51:1-5.

¹⁴² Id. at 51:7-12.

¹⁴³ Id. at 51:12-19.

9.57 percent ROE.¹⁴⁴ This effect does not depend on selecting a 4.0 percent MRP: substituting Kroll LLC's own recommended 5.0 percent U.S. equity-risk premium for the 8.91 percent MRP, while otherwise leaving the McKenzie Testimony's inputs (including its Value Line betas) in place, would still reduce the composite ROE to approximately 10.05 percent,¹⁴⁵ well below McKenzie's 11.39 percent, with no natural break surviving a computation done on the same basis and with Algonquin retained.¹⁴⁶ The Kroll comparison is particularly significant because McKenzie uses Kroll to obtain his size adjustments while using an 8.91 percent MRP that is nearly twice Kroll's own recommended 5.0 percent premium for the same general valuation purpose and study period.¹⁴⁷

An additional comparison confirms the direction of the correction: a comparison of equity returns with utility debt yields. The ultimate corrected composite ROE of 9.32 percent derived by Hanser implies a roughly 348-basis-point premium over the study-period Baa utility bond yield; the Commission's 9.57 percent Opinion No. 594 ROE, restated against the current 5.84 percent Baa yield, would imply approximately 373 basis points, while McKenzie's 11.39 percent implies about 555 basis points—which is well above any historical utility norm.¹⁴⁸

Historical utility-rate-case research serves as corroboration: Rode and Fischbeck found an average authorized-ROE premium over the risk-free rate of approximately 510 basis points from 1980–2018.¹⁴⁹ McKenzie's proposal implies roughly 660–725 basis points—well above the 510-

¹⁴⁴ Id. at 51:21-23.

¹⁴⁵ Note that here the 10.05 percent substitutes Kroll's 5.0 percent MRP into McKenzie's Value Line framework; in Subsection K the approximate 9.6 percent composite ROE substitutes Kroll's 5.0 percent MRP into Hanser's Bloomberg-beta framework. See note 254 *infra*.

¹⁴⁶ Id. at 52:1-6.

¹⁴⁷ Id. at 52:13-17.

¹⁴⁸ Id. at 53:1-12.

¹⁴⁹ Id. at 53:15-18.

basis-point average Rode and Fischbeck report across the four decades, and at or above the 668-basis-point average they report for 2018, the final year of their series, in a study period in which neither risk-free rates nor betas are at historic extremes.¹⁵⁰ The corrected 9.0–9.9 percent bracket implies roughly 425–575 basis points and therefore straddles the 510-basis-point historical average Rode and Fischbeck report.¹⁵¹ The corrected 9.0–9.9 percent bracket therefore does not price utility equity too cheaply; it returns the premium to the range that four decades of authorized returns describe.¹⁵²

F. Size Adjustment

McKenzie applies a Kroll-derived size adjustment to each proxy-company CAPM result. The adjustments range from 1 basis point for the largest firms, such as Duke and Southern, to 88 basis points for Otter Tail and Avista, and average about 32 basis points across the proxy group.¹⁵³

The historical “size effect” underlying these adjustments has been heavily questioned in the academic literature with respect to whether a size premium remains identifiable in U.S. data after the early 1980s, statistical robustness, and the quality of the original data.¹⁵⁴ A delisting bias in the Center for Research in Security Prices (CRSP) database that materially inflates the small-stock returns underlying the original size-effect estimates has also been documented.¹⁵⁵

Additional literature documents that the unconditional size premium is weak, has disappeared

¹⁵⁰ Id. at 54:2-7.

¹⁵¹ Id. at 54:7-9.

¹⁵² Id. at 54:9-11.

¹⁵³ Id. at 55:3-8; *see also* McKenzie Testimony at 34:19–26, 35:3–25; Ex. PTO-105.

¹⁵⁴ Id. at 55:10-14, *citing* Mathijs A. van Dijk, *Is Size Dead? A Review of the Size Effect in Equity Returns*, 35 J. Banking & Fin. 3263 (2011), <https://doi.org/10.1016/j.jbankfin.2011.05.009>

¹⁵⁵ Hanser Aff. at 55:15-17, *citing* Tyler Shumway, *The Delisting Bias in CRSP Data*, 52 J. Fin. 327 (1997), <https://doi.org/10.1111/j.1540-6261.1997.tb03818.x>.

since the 1980s, and is recoverable only after controlling for firm quality.¹⁵⁶ Damodaran also observes that current-market evidence indicates that the small-cap premium, although historically well documented, has faded or even disappeared in this century.¹⁵⁷

The second difficulty with the size adjustment is that the original size effect arose from microcap stocks exposed to liquidity, distress, and price-discovery risks, which do not characterize regulated utilities.¹⁵⁸ Otter Tail illustrates that mismatch: although it is the smallest company in McKenzie’s proxy group, its regulated utility has a fixed customer base and cost-of-service recovery, while most of the parent company’s revenues come from cyclical manufacturing and plastics businesses.¹⁵⁹ Applying a CRSP-decile-based size premium to Otter Tail is a “category error”: its regulated utility does not bear the liquidity, distress, or price-discovery risks the premium is supposed to capture, while the risks of its industrial businesses arise from cyclical markets rather than from firm size.¹⁶⁰

Removing the size adjustment would lower McKenzie’s Value Line CAPM midpoint from 11.90 percent to 11.68 percent, a reduction of about 22 basis points, or about 11 basis points on the composite ROE, measured on McKenzie’s uncorrected Value Line specification; within Hanser’s corrected framework, at a 4.0 percent MRP and Bloomberg betas, removal would instead lower the composite by approximately 22 basis points, as Subsection K explains.¹⁶¹ The effect is smaller than the 32-basis-point average size premium because the midpoint depends only on the observations setting the top and bottom of the range, rather than on

¹⁵⁶ Hanser Aff. at 55:17-18, 56:1, *citing* Ron Alquist, Ronen Israel & Tobias J. Moskowitz, *Fact, Fiction, and the Size Effect*, 45 J. Portfolio Mgmt. 34 (2018), <http://dx.doi.org/10.2139/ssrn.3177539>.

¹⁵⁷ Hanser Aff. at 56:1-10.

¹⁵⁸ Id. at 56:16-18.

¹⁵⁹ Id. at 56:18-19, 57:1-4.

¹⁶⁰ Id. at 57:5-9.

¹⁶¹ Id. at 57:12-14.

the average adjustment across all companies.¹⁶² Otter Tail sets the upper end of McKenzie's Value Line CAPM range at 13.23 percent only because it receives the largest size premium, 0.88 percent; without the size adjustments, NextEra and Sempra would instead be the highest observations at 12.79 percent.¹⁶³

The size adjustment does more than add a small amount to every company's CAPM result: as Subsection C explains, it changes the ordering of the distribution and moves Otter Tail, the least comparable company in the group, to the point that determines the upper end of the range and thus affects the recommended return.¹⁶⁴

Notwithstanding these objections, Hanser expressly does *not* ask the Commission to abandon the size adjustment.¹⁶⁵ Rather, he acknowledges that Opinion No. 594 found a size adjustment necessary to address CAPM's inability fully to account for firm size, and he treats the academic debate as a reason for caution about the adjustment's magnitude, not as a basis for setting it to zero.¹⁶⁶ Accordingly, Hanser does not carry a size-adjustment correction into his composite ROE recommendation. His 9.32 percent corrected composite retains McKenzie's size adjustments exactly as reported in Exhibit PTO-105; the approximately 9.10 percent figure without the adjustment is presented only as an alternative on which Hanser places no reliance.¹⁶⁷ The objection is structural rather than arithmetic: the largest size premium, 0.88 percent, is assigned to Otter Tail and is what places that least-comparable company at the upper bound of

¹⁶² Id. at 57:14-16.

¹⁶³ Id. at 57:16-21; *See also* Ex. PTO-105.

¹⁶⁴ Hanser Aff. at 57:21-23, 58:1-2.

¹⁶⁵ Id. at 58:3-4.

¹⁶⁶ Id. at 58:4-8.

¹⁶⁷ Id. at 58:8-11.

the CAPM ranges; the size adjustment therefore matters chiefly because it magnifies the proxy-group composition problem identified in Subsection C (Hanser Affidavit Section IV).¹⁶⁸

G. The Choice Between Value Line and Bloomberg Betas

The McKenzie Testimony presents results under two CAPM beta specifications: Value Line betas (Exhibit PTO-105), with a proxy-group average of 0.78, and Bloomberg betas (Exhibit PTO-106), with a proxy-group average of approximately 0.60.¹⁶⁹ Bloomberg's beta is lower than Value Line's for every one of the 25 companies for which both are available, typically by 0.15 to 0.22; at McKenzie's 8.91 percent MRP, the average 0.18 beta difference translates into roughly 160 basis points in the CAPM result.¹⁷⁰

McKenzie prefers Value Line on grounds of investor familiarity, use of the broader NYSE Composite Index as the market benchmark, and administrative convenience: none of those reasons addresses empirical accuracy.¹⁷¹

The Value Line and Bloomberg beta sources differ in construction rather than principle. Value Line regresses weekly stock-price changes against weekly changes in the NYSE Composite over five years and then adjusts the resulting beta toward 1.00; Bloomberg uses a different observation window and reference index.¹⁷² The Bloomberg exhibit does not disclose the observation window, benchmark index, return interval, or whether the beta is adjusted toward one, and McKenzie himself criticizes Bloomberg-derived betas as depending on user-selected criteria that can potentially be manipulated.¹⁷³ The transparency problem Bloomberg presents is

¹⁶⁸ Id. at 58:11-17.

¹⁶⁹ Id. at 58:20-22; McKenzie Testimony at 37:16-17, 40:22-24; Exs. PTO-105, PTO-106.

¹⁷⁰ Hanser Aff. at 58:22-23, 59:1-3.

¹⁷¹ Id. at 59:3-5; McKenzie Testimony at 34:7-18, 39:3-21, 40:11-18.

¹⁷² Hanser Aff. at 59:7-14.

¹⁷³ Id. at 59:16-17, 60:1-2; McKenzie Testimony at 40:11-18.

real but does not make the Bloomberg figures unreliable for purposes of this record because McKenzie himself introduced them as PTO evidence: the real question is which of the two sets of record evidence should receive greater weight.¹⁷⁴

Hanser’s recommendation is not that the Commission abandon adjusted betas.¹⁷⁵ Rather, the narrower claim is that external empirical evidence concerning regulated-network risk supports the lower beta estimates—Bloomberg rather than the higher Value Line estimates.¹⁷⁶

U.K. regulatory work identifying unlevered asset betas for regulated networks in the 0.30–0.40 range and U.S. utility research reporting median equity betas between 0.08 and 0.74, with no tendency toward convergence to 1.00, are more consistent with Bloomberg’s lower proxy-group average.¹⁷⁷ Six participants in this proceeding—State Entities¹⁷⁸, Consumer Advocates¹⁷⁹, the Connecticut Industrial Energy Consumers (“CIEC”)¹⁸⁰, Public Systems¹⁸¹, the Maine Office of the Public Advocate (“Maine OPA”)¹⁸², and the New England Consumer-Owned Systems (“NECOS”) and Energy New England, LLC (“ENE”)¹⁸³—contend that, where both Value Line and Bloomberg betas are in the record, Commission precedent favors

¹⁷⁴ Hanser Aff. at 60:2-12.

¹⁷⁵ Id. at 60:12-13.

¹⁷⁶ Id. at 60:13-17, 61:1-4.

¹⁷⁷ Id. at 60:14-17, 61:1-4.

¹⁷⁸ State Entities, *Protest and Request for Maximum Suspension, Refund Protection, and Hearing and Settlement Procedures*, Docket No. ER26-2389-000, at 13–14 (FERC May 21, 2026).

¹⁷⁹ Consumer Advocates, *Joint Protest of the Identified Consumer Advocates*, Docket No. ER26-2389, at 10 & n.35 (FERC May 21, 2026).

¹⁸⁰ Connecticut Industrial Energy Consumers, *Protest of the Connecticut Industrial Energy Consumers*, Docket No. ER26-2389-000, at 8–9 & n.25 (FERC May 21, 2026).

¹⁸¹ Public Systems, *Motion to Intervene and Protest*, Docket No. ER26-2389-000, at 6–7 & nn.19–22 (FERC May 21, 2026).

¹⁸² Maine Office of the Public Advocate, *Protest and Request for Partial Summary Disposition*, Docket No. ER26-2389-000, at 4, 10 (FERC May 21, 2026).

¹⁸³ New England Consumer-Owned Systems & Energy New England, LLC, *Motion to Intervene, Protest and Request for Evidentiary Hearing*, Docket No. ER26-2389-000, at 11–12 (FERC May 21, 2026); Lesser Aff.¶ 11 (McKenzie “falsely impl[ies] that the Commission requires the use of Value Line betas” and that the Commission’s preference for Bloomberg betas began with *Constellation Mystic Power*).

Bloomberg; three locate that preference in Opinion No. 594, and State Entities¹⁸⁴ also cite Opinion No. 569-A.¹⁸⁵ Hanser expresses no view on the scope of that precedent, which is a question for the briefs rather than for him. If the Commission’s practice is to prefer Bloomberg where both are available, the beta-source question is not a discretionary judgment at all, and the correction Hanser quantifies using Bloomberg—approximately 60 basis points on the composite ROE—follows from the Commission’s own practice.¹⁸⁶

Public Systems put the point directly: there is no showing that Bloomberg betas were unavailable, and where both sources can be accessed, a filing party does not have the option of selecting the data set it prefers.¹⁸⁷ McKenzie contests that reading, asserting that Opinion No. 594 stated that only Value Line betas were available in that proceeding and that the passage the participants invoke concerns the development of size premia.¹⁸⁸ The empirical analysis does not depend on the outcome of the dispute regarding Commission precedent: McKenzie placed both beta sources—Bloomberg as well as Value Line—in the record, and the comparison between them can be made on the evidence whatever Commission precedent is determined to require.¹⁸⁹ Two points bear emphasis so that this issue is not misread. First, unlike the market-return method and the size premium, the Commission’s methodology as revised in Opinion No. 569-A prescribes no particular beta source; the choice between Value Line and Bloomberg is an open practitioner judgment, and selecting Bloomberg therefore departs from nothing the Commission

¹⁸⁴ See note 176 *supra*.

¹⁸⁵ State Entities, *Protest and Request for Maximum Suspension, Refund Protection, and Hearing and Settlement Procedures*, Docket No. ER26-2389-000, at 13 & nn.68–69 (FERC May 21, 2026).

¹⁸⁶ Hanser Aff. at 61:16-18, 62:1-2.

¹⁸⁷ Massachusetts Municipal Wholesale Electric Company & New Hampshire Electric Cooperative, Inc., *Motion to Intervene and Protest*, Docket No. ER26-2389-000, at 7 & n.22 (FERC May 21, 2026).

¹⁸⁸ Hanser Aff. at 62:5-7; McKenzie Testimony at 38 n.66; see also Hanser Aff. at 62:5–7.

¹⁸⁹ Hanser Aff. at 62:11-12.

has mandated.¹⁹⁰ Second, setting the issue of Commission precedent aside, the evidence on the asset betas of regulated networks favors the lower of the two estimates in the record: to avoid any apparent tension with Subsection A, the leverage illustration there and the beta-source correction here are alternative routes to the same downward conclusion and are not applied additively; the corrected framework re-levers within the Bloomberg specification rather than importing the Value Line equity beta.¹⁹¹

The Value Line and Bloomberg betas are not equally supported alternatives: the empirical evidence on regulated-network systematic risk weighs against the higher Value Line estimates, notwithstanding Value Line's familiarity or administrative convenience.¹⁹² The choice is quantitatively significant. Using the exhibits as reported, Value Line produces an 11.90 percent CAPM midpoint and Bloomberg 10.70 percent, a difference of 120 basis points; at the composite-ROE level, that becomes 11.39 percent versus 10.79 percent, a 60-basis-point difference.¹⁹³ Familiarity and administrative convenience are not reasons to prefer the higher of two figures when the evidence bearing on accuracy favors the lower: choosing Value Line over Bloomberg does not resolve a genuine ambiguity in the evidence; it selects against it.¹⁹⁴

One qualification is noted: Bloomberg includes Hydro One, which has no Value Line counterpart and sets the Bloomberg lower endpoint.¹⁹⁵ Restricting the comparison to the 25 companies common to both sources reduces the CAPM-midpoint difference from 120 to 107 basis points and the composite difference from 60 to 54 basis points.¹⁹⁶

¹⁹⁰ Id. at 62:19-23.

¹⁹¹ Id. 63:3-7.

¹⁹² Id. at 63:9-12.

¹⁹³ Id. at 63:12-16.

¹⁹⁴ Id. at 63:16-19.

¹⁹⁵ Id. at 63:20-23.

¹⁹⁶ Id. at 63:1, 64:1-2.

McKenzie’s preference for Value Line’s systematically higher betas is not supported by evidence showing that they better measure regulated-network risk.

H. Treatment of Bond-Yield Trends

This Subsection and the following two Subsections address what Hanser characterizes as the “subsidiary arguments” McKenzie advances to support his recommendation—bond-yield trends, sell-side research, and the *Hope/Bluefield* standard.

The McKenzie Testimony presents rising bond yields as evidence that, since the Opinion No. 594 study period, the cost of equity has increased.¹⁹⁷ Specifically, the McKenzie Testimony points to the ten-year Treasury yield rising from 1.83 percent in the 2012–2013 study period to 4.15 percent in March 2026, and the Baa utility bond yield rising from 4.61 percent to 5.84 percent.¹⁹⁸ McKenzie’s implicit argument is that MRP is stable, so increases in the risk-free rate translate one-for-one into increases in the cost of equity.¹⁹⁹ The empirical literature does not support McKenzie’s implicit argument.²⁰⁰

Contrary to McKenzie’s view, the MRP and the risk-free rate have been negatively correlated over extended periods, with the MRP typically compressing as interest rates rise.²⁰¹ Damodaran’s implied ERP series corroborates this across the Opinion No. 594 study period, and the study period in this proceeding: the MRP averaged 6.09 percent in October 2012–March

¹⁹⁷ Id. 64:10-11; McKenzie Testimony at 22:1–14, 23:1–12, 24:3–13.

¹⁹⁸ Id. at 64: 11-13, 65:1; McKenzie Testimony at 22:13–14 & fig. AMM-4.

¹⁹⁹ Id. at 65.1-2.

²⁰⁰ Id. at 65:3-4.

²⁰¹ Id. at 65:4-5, citing Fernando Duarte & Carlo Rosa, *The Equity Risk Premium: A Review of Models*, 21 Fed. Rsr. Bank N.Y. Econ. Pol’y Rev. 39 (2015), https://www.newyorkfed.org/medialibrary/media/research/epr/2015/2015_epr_equity-risk-premium.pdf, and Tobias Adrian, Richard K. Crump & Emanuel Moench, *Regression-Based Estimation of Dynamic Asset Pricing Models*, 118 J. Fin. Econ. 211 (2015), <https://doi.org/10.1016/j.jfineco.2015.07.004>.

2013 but only 4.13 percent in October 2025–March 2026.²⁰² The MRP fell by 196 basis points over precisely the interval in which the testimony observes the ten-year Treasury yield rising by 232 basis points: the two components moved in opposite directions and by comparable magnitudes.²⁰³

Using a Bloomberg beta of approximately 0.60, the implied cost of equity rises only about 114 basis points, from roughly 5.49 percent to 6.63 percent, despite the 232-basis-point rise in the risk-free rate—approximately one-half pass-through rather than one-for-one.²⁰⁴ The longer Damodaran series shows the same pattern: MRPs were elevated during the low-rate post-2008 period and compressed as rates normalized.²⁰⁵ Accordingly, a 232-basis-point increase in Treasury yields did not mechanically or empirically imply a 232-basis-point increase in the cost of equity.²⁰⁶

The McKenzie Testimony’s framing is directionally correct insofar as some pass-through likely exists, but the magnitude implied by that framing is not consistent with the data.²⁰⁷ Rode and Fischbeck’s forty-year dataset shows authorized ROEs falling only modestly—from about 14 percent in 1980 to about 9.7 percent in 2018—even though Treasury and Baa bond yields fell much more sharply.²⁰⁸ Over the same period, the authorized-ROE premium over the risk-free rate widened from about 277 basis points to about 668 basis points, indicating that regulator-

²⁰² Hanser Aff. at 65:4-7.

²⁰³ Id. at 65:10-12.

²⁰⁴ Id. at 65:13-17.

²⁰⁵ Id. at 65:18-19, 66:1.

²⁰⁶ Id. at 66:1-2.

²⁰⁷ Id. at 66:2-4.

²⁰⁸ Id. at 66:6-9.

approved utility returns have historically been relatively insensitive to changes in the risk-free rate.²⁰⁹

The record supplies no basis for the McKenzie Testimony’s assumption that a recovery in Treasury yields must translate, one-for-one or anything near it, into a higher cost of equity; the longest and most directly relevant dataset available points the other way.²¹⁰ The Commission’s experience with Opinion No. 531 cautions against using general capital-market conditions to justify an upward ROE departure without a reasoned connection between the evidence and the specific return selected: the Court of Appeals vacated the Commission’s determination because, although the evidence may have supported an upward adjustment, the Commission failed to establish a rational connection between the record evidence and its selection of a 10.57 percent base ROE.²¹¹ Rode and Fischbeck note that some eighteen months after the Court of Appeals’ anomaly finding, the Commission itself acknowledged that expert witnesses disagreed whether market conditions were in fact anomalous.²¹² Section IV.A of the McKenzie Testimony advances the same argument: that prevailing conditions warrant a return above what the models produce.²¹³

The McKenzie Testimony relies extensively on qualitative commentary from S&P Global Ratings, Moody’s, and Wood Mackenzie regarding utility-sector “challenges,” “credit pressures,” and “supply-chain risks.”²¹⁴ Those qualitative observations are not independent

²⁰⁹ Id. at 66:10-14.

²¹⁰ Id. at 66:16-19.

²¹¹ Id. at 66:19-21, 67:1-6; See *Coakley v. Bangor Hydro-Electric Co.*, Opinion No. 531, 147 FERC ¶ 61,234, ¶¶ 145, 150–52 (2014); *Emera Maine v. FERC*, 854 F.3d 9, 27–30 (D.C. Cir. 2017) (vacating Opinion No. 531 because FERC failed to establish a “rational connection” between the record evidence and its selection of a 10.57 percent base ROE).

²¹² Hanser Aff. at 66:6-9; See David C. Rode & Paul S. Fischbeck, *Regulated Equity Returns: A Puzzle*, 133 Energy Pol’y 110891, 3 n.4 (2019).

²¹³ Hanser Aff. at 67:9-10; McKenzie Testimony at 22:1–14, 23:1–12, 24:3–13.

²¹⁴ Hanser Aff. at 67:13-15; McKenzie Testimony at 19:11–28, 20:3–22, 21:1–20.

evidence of the cost of equity because, to the extent the identified risks are real and material, they should already be reflected in proxy-company stock prices and analyst growth estimates used in the CAPM and DCF analyses: treating the qualitative risk narrative as an additional reason to raise the ROE risks double counting the same risks already embedded in the quantitative market inputs.²¹⁵

I. Use of Sell-Side Research

The McKenzie Testimony cites research from Bank of America Merrill Lynch, Evercore ISI, Wolfe Research, and S&P Global Market Intelligence to support the proposition that a more restrictive ROE methodology could deter investment in transmission, presenting those reports as independent evidence of investor expectations.²¹⁶

Sell-side equity research and ratings-agency utility commentary primarily serve utility shareholders and management and are produced within an institutional setting that creates structural incentives favoring higher allowed returns.²¹⁷ Sell-side equity research should thus not be treated as neutral evidence of the cost of capital.²¹⁸ Moreover, McKenzie's evidentiary base is blinkered: it relies extensively on commentary from sources aligned with utility shareholders while not engaging with academic-finance research, asset managers' forward-looking capital-market assumptions, or consumer-advocate analyses pointing in the opposite direction.²¹⁹

The substantive objection to the qualitative commentary McKenzie relies on is that it describes risks that, to the extent they are real and material, are already impounded in the

²¹⁵ Id. 67:16-18, 68:1-2.

²¹⁶ McKenzie Testimony at 43:3-21, 44:1-3; see also Hanser Aff. at 68:5-8.

²¹⁷ Hanser Aff. at 68:10-13.

²¹⁸ Id. at 68:13-14.

²¹⁹ Id. at 68:14-18.

observed share prices and analyst growth forecasts of the proxy group—the inputs that produced the McKenzie Testimony’s DCF and CAPM results.²²⁰ Treating the same qualitative commentary as separate, additional support for a higher ROE effectively double-counts those risks, without regard for the analysts’ incentives.²²¹

J. The Hope/Bluefield Standard

Section II.A of the McKenzie Testimony presents the *Hope* and *Bluefield* standards almost entirely from the utility’s perspective—emphasizing investor confidence, financial integrity, access to capital, and the risk that regulatory uncertainty will discourage investment. What the McKenzie Testimony does not address in its presentation of *Hope* and *Bluefield* is the other side of the same standard: allowed returns should not exceed what is necessary to attract capital, and ratepayers have a legally cognizable interest in protection against excessive or exploitative rates.²²²

Hope rejected reliance on any single ratemaking formula and made the controlling inquiry whether the ultimate “end result” is just and reasonable.²²³ The McKenzie Testimony’s framing implies that the just-and-reasonable standard is violated when allowed returns fall below the midpoint of the analytical range.²²⁴ The standard, however, is symmetrical: an end result *above* the level required to attract capital is no less unjust and no less unreasonable than one that is below.²²⁵ McKenzie discusses the lower boundary of a reasonable return at length, but fails to

²²⁰ Id. at 68:21-23, 69:1.

²²¹ Id. 69:1-3.

²²² See McKenzie Testimony at 2:11–26, 3:1–27, 4:1–15; see also Hanser Aff. at 69:6–12.

²²³ Hanser Aff. at 69:14-15.

²²⁴ Id. at 69:15-17.

²²⁵ Id. at 69: 17-18.

address the corollary upper boundary of a reasonable return, and the absence of that discussion is conspicuous.²²⁶

The McKenzie Testimony further contends that reliance only on FERC's two-step DCF and CAPM methodologies is too narrow, and that the Risk Premium and Expected Earnings approaches should be restored.²²⁷ Taking the Commission's position as settled, Hanser generated his 9.32 percent composite base ROE using the two models the Commission adopted, applied to the Commission-specified study-period data, while retaining the Commission's size adjustment.²²⁸ The same end-result review that would test whether Hanser's 9.32 percent composite base ROE is too low is the review that must test whether 11.39 percent is too high.²²⁹ This upper-bound concern is supported by Rode and Fischbeck's four decades of rate-case data, which suggest that regulators have authorized an equity-return premium not explained by classical asset-pricing models and that such excess returns translate into tangible utility profits.²³⁰ Rode and Fischbeck do not assert that authorized returns are necessarily too high; they say expressly that whether the non-normative factors they identify constitute a legitimate basis for rate-of-return determination deserves separate study.²³¹ They have nevertheless established that the premium has widened for reasons the classical model does not explain.²³² Their data document the upper-bound problem *Hope* contemplates—an end result above the level required

²²⁶ Id. at 69:18-19.

²²⁷ McKenzie Testimony at 41:3-7, 43:3-21, 44:4-21; *see also* Hanser Aff. at 69:20-21, 70:1.

²²⁸ Hanser Aff. at 70:4-7.

²²⁹ Id. at 70:8-10.

²³⁰ Id. at 70:11-13.

²³¹ Id. at 70:15-18.

²³² Id. at 70:19-20.

to attract capital—and show that it is not a hypothetical concern but a pattern identifiable across the industry.²³³

The McKenzie Testimony, which pays exclusive attention to the lower bound of the constitutional standard but leaves the upper bound of the constitutional standard unaddressed, proposes a premium of roughly 660 basis points over the thirty-year Treasury yield—which exceeds by a wide margin the 510-basis-point average that Rode and Fischbeck find already unexplained by the capital-asset-pricing model.²³⁴

K. Quantitative Synthesis

The McKenzie Testimony purports to be a faithful application of the Commission’s Opinion 594 Methodology, accompanied by carefully bracketed disagreements with that methodology’s particulars.²³⁵ The McKenzie Testimony’s exhibits, however, reveal two material departures. The Hanser Affidavit identifies these and corrects for them.

First, three discretionary choices left open by the Commission’s framework—the calculation of the expected market return, the choice between beta sources, and the inclusion of size adjustments—are inputs to the CAPM, and McKenzie resolves each in the direction that increases the composite base ROE.²³⁶ Hanser corrects two of them—the calculation of the expected market return and the choice between beta sources—but retains the inclusion of size adjustments.

Second, the criteria that govern McKenzie’s composition of the proxy group were applied unevenly: the discrete-event screen that removes Eversource and Edison International is not

²³³ Id. at 70:20-23

²³⁴ Id. at 70:1, 71:1-4.

²³⁵ Id. at 81:10-12; *see also* McKenzie Testimony at 9:4-14.

²³⁶ Id. at 81:13-16.

applied to Algonquin; the natural-break test is applied only at the top of the distribution, though the largest gap in the data lies at the bottom; and the exclusion of Edison is what creates the very gap on which that test then depends.²³⁷

Under the Opinion 594 Methodology, the final composite ROE is the average of two model results: composite ROE = (Two-Step DCF midpoint + CAPM midpoint) ÷ 2.

McKenzie's filed numbers illustrate this:

- Two-step DCF midpoint = 10.88 percent
- Value Line CAPM midpoint = 11.90 percent

Composite ROE = (10.88 percent + 11.90 percent) ÷ 2 = **11.39 percent**²³⁸

Hanser's two principal corrections—changing the MRP and using Bloomberg rather than Value Line betas—affect the CAPM calculation only. They do not change the companies in the proxy group or the inputs to the two-step DCF analysis. Consequently, Hanser leaves the DCF midpoint unchanged at 10.88 percent.²³⁹ As a result, any changes to the CAPM midpoint are mathematically halved.²⁴⁰

The Commission's low-end threshold—designed to screen out unrealistically low ROE estimates—is a function of the MRP, and screens both models (i.e., both the two-step DCF and the CAPM results).²⁴¹ In McKenzie's analysis, his 8.91 percent MRP sets the low-end threshold at 7.62 percent: any individual company's DCF or CAPM result below 7.62 percent is excluded from the range. Hanser substitutes a 4.0 percent MRP, setting the low-end threshold at 6.64 percent.²⁴² The 4.0 percent MRP does not change McKenzie's DCF calculation. Pinnacle West

²³⁷ Id. at 81:22-23, 82:1-3.

²³⁸ McKenzie Testimony at 10:1-10, 32:6-9, 37:16-17; Ex. PTO-102.

²³⁹ Hanser Aff. at 71:9-11.

²⁴⁰ Id. at 71:11-13.

²⁴¹ Id. at 71:15-16.

²⁴² See Subsection E, *supra*.

has the lowest DCF result, at 6.17 percent: it was excluded under McKenzie's original 7.62 percent threshold and remains excluded because it is below Hanser's recalculated 6.64 percent threshold.²⁴³

Replacing McKenzie's 8.91 percent MRP with a 4.0 percent forward-looking MRP reduces the CAPM midpoint by approximately 350 basis points and the composite ROE by approximately 175 basis points (i.e. the reduction in the CAPM is halved in the composite ROE calculation, as described above).²⁴⁴

Using Bloomberg betas, averaging approximately 0.60, instead of Value Line betas, averaging approximately 0.78, reduces the CAPM midpoint by approximately 120 basis points and the composite ROE by approximately 60 basis points (i.e. the reduction in the CAPM is halved once again).²⁴⁵

Hanser takes no numerical correction for the size adjustment, retaining it exactly as McKenzie reports it in Exhibit PTO-105.²⁴⁶

Taken together, the MRP and beta corrections reduce the CAPM midpoint by approximately 414 basis points and the composite ROE by approximately 207 basis points, reducing McKenzie's proposed 11.39 percent base ROE to approximately 9.32 percent.²⁴⁷

Changing the MRP and changing the beta are not independent operations. Calculating the effect of lowering the MRP while keeping the original beta, and the effect of lowering the beta while keeping the original MRP, and then adding those two effects, would count part of the same

²⁴³ Hanser Aff. at 71:15-18.

²⁴⁴ Id. See the first row of the principal quantifiable adjustments table at 71.

²⁴⁵ Id. See the second row of the principal quantifiable adjustments table at 71.

²⁴⁶ Id. See the third row of the principal quantifiable adjustments table at 71.

²⁴⁷ Id. See the fourth row of the principal quantifiable adjustments table at 71.

beta-times-MRP interaction twice. The 207-basis-point reduction is thus calculated directly rather than by simply adding the separate MRP and beta effects.²⁴⁸

Hanser recalculates each proxy company's CAPM result using his preferred MRP and beta source, while leaving McKenzie's size adjustment in place (i.e., CAPM = risk-free rate + (Bloomberg beta × 4.0 percent MRP) + McKenzie's size adjustment). After performing this operation for all proxy companies, the surviving CAPM results form a range. The lowest result is Hydro One at 6.76 percent, and the highest is Otter Tail at 8.77 percent. Under the Commission's Opinion 594 Methodology, the CAPM "midpoint" is not the average of all the companies; it is the midpoint between the lowest and highest surviving results: so, (6.76 percent + 8.77 percent) ÷ 2 = 7.765 percent ≈ 7.77 percent.²⁴⁹

Hanser does not incorporate several additional adjustments into his principal 9.32 percent composite ROE result. Symmetric application of the natural-break test produces no additional numerical change; consistent proxy screening would *raise* the composite by about 52 basis points; the leverage adjustment is not carried; removing the size adjustment would lower the composite another 22 basis points; and excluding Otter Tail would lower it about 14 basis points.²⁵⁰

If the size adjustment were also removed—*Hanser does not remove it*—the corrected composite would be approximately 9.10 percent rather than the 9.03 percent that omitting the low-end screen would produce, because Hanser applies the Commission's low-end screening criterion consistently and excludes Hydro One and Consolidated Edison once their results fall

²⁴⁸ Id. at 73:6-16.

²⁴⁹ Id. at 73:16-20.

²⁵⁰ Id. at 74:8-17.

below the recomputed 6.64 percent threshold.²⁵¹ Hanser expressly declines to adopt that lower 9.10 percent figure because the Commission has found the size adjustment necessary; *Hanser presents it merely as an alternative.*²⁵²

Excluding Otter Tail Corporation, the least comparable member of the proxy group, would lower the corrected composite by roughly 14 basis points to approximately 9.19 percent; *Hanser presents it as illustrative.*²⁵³

Consistent proxy-group screening would instead increase Hanser's corrected result by approximately 52 basis points, to approximately 9.84 percent, and *Hanser claims none of that upward adjustment either.*²⁵⁴

Hanser holds the corrected MRP at 4.0 percent throughout and characterizes it as conservative: it is below Damodaran's 4.13 percent study-period average but well above the approximately 1.8 percent implied by J.P. Morgan's long-term assumptions; using 4.13 percent produces a composite ROE of 9.36 percent, while Kroll's 5.0 percent produces a composite ROE of about 9.6 percent²⁵⁵ within the corrected framework—that is, applied together with the Bloomberg betas. The higher 10.05 percent figure reported in Subsection E above reflects the same Kroll premium substituted into McKenzie's uncorrected Value Line specification; the two figures differ in beta source, not in premium.²⁵⁶ Across what Hanser describes as the mainstream

²⁵¹ Id. at 74:17-19.

²⁵² Id. at 74:19-21.

²⁵³ Id. at 74:21, 75:2-3.

²⁵⁴ Id. at 75:2-6.

²⁵⁵ Note that here the approximate 9.6 percent composite ROE substitutes Kroll's 5.0 percent MRP into Hanser's Bloomberg-beta framework; in Subsection E the 10.05 percent composite ROE substitutes Kroll's 5.0 percent MRP into McKenzie's Value Line framework. See note 145 *supra*.

²⁵⁶ Id. at 75:10-15, 76:1-2.

range of defensible MRPs, every corrected variant falls between approximately 9.0 percent and 9.7 percent, well below McKenzie's 11.39 percent recommendation.²⁵⁷

Hanser emphasizes that his entire principal composite ROE reduction falls on the CAPM side: he accepts McKenzie's 10.88 percent two-step DCF midpoint without correction even though it is 203 basis points above the 8.85 percent DCF result in Opinion No. 594.²⁵⁸

His 9.32 percent result also does not depend materially on Otter Tail, despite Otter Tail setting the corrected CAPM upper endpoint; excluding Otter Tail would lower the composite only about 14 basis points to approximately 9.19 percent.²⁵⁹

*Hanser's principal conclusion is that applying the framework of the Opinion 594 Methodology while correcting only the MRP and beta source as informed by the academic and institutional financial literature, and using McKenzie's own proxy group, produces a 9.32 percent composite ROE.*²⁶⁰

The other illustrative variants run in both directions—9.10 percent with the size adjustment removed, approximately 9.19 percent with Otter Tail excluded, and approximately 9.84 percent with consistent proxy screening—but Hanser expressly rests his conclusion on 9.32 percent and claims none of the others.²⁶¹

The conservative character of Hanser's analysis supports its evidentiary weight: he declines adjustments that would sometimes benefit his position, retains the size adjustment he criticizes because the Commission has adopted it, accepts McKenzie's elevated DCF midpoint,

²⁵⁷ Id. at 75:2-5.

²⁵⁸ Id. at 76:7-9.

²⁵⁹ Id. at 75:12-21.

²⁶⁰ Id. at 77:3-7.

²⁶¹ Id. at 77:7-11.

and uses a 4.0 percent MRP rather than still-lower figures the evidence could support. “An analysis constructed to reach a predetermined result would have done none of those things.”²⁶²

Hanser calculates a corrected “zone of reasonableness” averaging the corresponding lower and upper endpoints of the DCF and CAPM ranges. The preceding sections report midpoints because the midpoint is the figure the Commission’s methodology ultimately produces and because Hanser’s critique concerns the inputs rather than the range, but the endpoints establishing the zone of reasonableness follow from the same computations.²⁶³

With a 4.0 percent MRP, Bloomberg betas, McKenzie’s size adjustments retained, and the DCF range unchanged, Hanser obtains a corrected CAPM range of 6.76 percent–8.77 percent: averaging that against the 9.20 percent–12.55 percent DCF range produces a corrected composite zone of reasonableness of approximately 7.98 percent–10.66 percent, with a midpoint of 9.32 percent.²⁶⁴

Notably, the Opinion No. 594 9.57 percent composite ROE falls within Hanser’s corrected 7.98 percent–10.66 percent zone,²⁶⁵ and McKenzie’s proposed 11.39 percent does not: it lies beyond the corrected upper bound by approximately 73 basis points and exceeds McKenzie’s own Bloomberg-specification midpoint of 10.79 percent by 60 basis points.²⁶⁶ The bounds of the zone of reasonableness have substantive legal significance: an ROE outside a properly determined zone of reasonableness cannot be sustained as just and reasonable.²⁶⁷

²⁶² Id. at 77:15-18, 78:1-5

²⁶³ Id. at 78:9-12.

²⁶⁴ Id. at 79:13-20.

²⁶⁵ Id. at 79:20-21.

²⁶⁶ Id. at 80:8-10.

²⁶⁷ See *supra* note 18.

The same two corrections that lower the recommended return by approximately 207 basis points—replacing McKenzie’s 8.91 percent MRP with a 4.0 percent MRP and using Bloomberg betas instead of Value Line betas—lower the zone itself: its lower bound by approximately 191 basis points and its upper bound by approximately 223 basis points. The zone of reasonableness within which the recommendation is said to fall was computed from the same contested inputs as the recommendation itself, and it corroborates nothing that the recommendation does not already assume.²⁶⁸

IV. CONCLUSION

The record does not support the PTO AC’s proposed 11.39 percent base ROE. The question before the Commission is not whether that figure can be produced by inserting selected inputs into the models employed in Opinion No. 594. The question under Section 205 is whether the PTO AC has demonstrated that the resulting rate is just and reasonable. It has not. The evidence instead demonstrates that McKenzie’s 11.39 percent recommendation is the product of methodological judgments that systematically elevate the result, most consequentially an 8.91 percent MRP and reliance on Value Line rather than Bloomberg betas. Those choices are compounded by inconsistencies in proxy-group screening, comparability, and application of the natural-break test that further diminish the evidentiary weight that can be assigned to his analysis.

Hanser’s analysis provides the more reliable application of the Commission’s methodology because it changes no more than the evidence requires. He accepts the Commission-specified study period, the two-step DCF and CAPM framework, McKenzie’s proxy group, McKenzie’s 10.88 percent DCF midpoint, and even the size adjustment that Hanser

²⁶⁸ Hanser Aff. 81:1-7.

independently questions. His principal quantitative correction is confined to two CAPM inputs: replacing McKenzie's 8.91 percent MRP with a 4.0 percent forward-looking MRP and using McKenzie's company-specific Bloomberg betas rather than Value Line betas. Those corrections are supported by contemporary financial evidence and reduce the composite ROE by approximately 207 basis points, from 11.39 percent to 9.32 percent. Hanser declines to carry other adjustments that could produce still lower results and even identifies a consistent proxy-screening alternative that would raise the result. His 9.32 percent determination is therefore not the product of selecting every assumption favorable to a lower ROE; it is the conservative result of correcting the two inputs that the record most clearly demonstrates are overstated while otherwise preserving McKenzie's implementation of the Commission's framework.

The resulting zone of reasonableness confirms the same conclusion. Using the unchanged two-step DCF range of 9.20 percent to 12.55 percent and the corrected CAPM range of 6.76 percent to 8.77 percent, Hanser calculates a composite zone of approximately 7.98 percent to 10.66 percent, whose midpoint is the same 9.32 percent produced by his principal calculation. The Commission's 9.57 percent ROE from Opinion No. 594 remains comfortably within that corrected zone. McKenzie's proposed 11.39 percent does not: it exceeds Hanser's properly derived upper bound of 10.66 percent by approximately 73 basis points.

That distinction has legal consequence. The PTO AC cannot establish the reasonableness of 11.39 percent merely by observing that it lies within McKenzie's 9.89 percent-to-12.89 percent zone, because that zone is itself generated by the same disputed MRP and beta assumptions that produce the proposed midpoint. Correcting those inputs lowers not only the midpoint but the zone itself—by approximately 191 basis points at the lower bound and 223

basis points at the upper bound. McKenzie's zone therefore supplies no independent validation of his recommendation; it simply reproduces the assumptions whose reasonableness is at issue.

Once the Commission determines the zone from the better-supported record evidence, the consequence follows. If, as Hanser demonstrates, the properly determined zone is 7.98 percent to 10.66 percent, an 11.39 percent base ROE lies beyond the range that the evidentiary record can sustain as reasonable. The PTO AC consequently has not carried its burden under Section 205 to show that its proposed increase is just and reasonable. Acadia Center therefore respectfully requests that the Commission reject the proposed 11.39 percent base ROE for failure to carry that burden, leaving the existing 9.57 percent base ROE in effect. In the alternative, to the extent the Commission establishes a base ROE in this proceeding, it should set that rate no higher than 9.32 percent, the figure produced by an evenhanded and evidence-based application of the Opinion 594 Methodology.

Respectfully submitted,

/s/ Joseph G. LaRusso
Senior Advocate
Acadia Center
141 Tremont Street, 3rd Floor
Boston, MA 02111
jlarusso@acadiacenter.org
(617) 913-2528
(617) 742-0054, x103
Mass. BBO No. 554983

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Initial Paper Hearing Brief of Acadia Center and accompanying exhibits upon each person designated on the official service list compiled by the Secretary in this proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Somerville, Massachusetts, this 28th day of August 2026.

/s/ Joseph G. LaRusso

Senior Advocate

Acadia Center

141 Tremont Street, 3rd Floor

Boston, MA 02111

jl Russo@acadiacenter.org

(617) 913-2528

(617) 742-0054, x103

Mass. BBO No. 554983