

PEDRO L. MARIN

Principal

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Dr. Pedro L. Marín is an economic expert on regulation and competition in various sectors, particularly energy, telecommunications, and transportation, and in valuation and microeconomics. Since joining Brattle he has directed numerous projects and provided testimony in international disputes and commercial arbitrations under the International Chamber of Commerce (ICC) Rules, before the Inter-American Commercial Arbitration Commission (IACAC), the International Centre for Settlement of Investment Disputes (ICSID), the United Nations Commission on International Trade Law (UNCITRAL), the Commercial Arbitration Court in Madrid (Corte Civil y Mercantil de Arbitraje), the Madrid Arbitration Chamber (Corte de Arbitraje de la Cámara Oficial de Comercio e Industria de Madrid) and in one ad hoc arbitration. He has also given testimony in competition cases before antitrust authorities and in cases before the Spanish Courts. Many of these cases include the estimation of damages. With respect to damages he has recently submitted expert reports in energy, telecommunications and broadcasting, construction and environmental damages, and retail services sectors. He also has provided regulatory advice to companies and regulatory authorities.

Between April 2008 and January 2011 he served as Secretary General and as Secretary of State for Energy in Spain with responsibility for the regulation of electricity and gas markets. Between 2004 and 2008 he was Director of the microeconomic policy department at the Economic Office of the Spanish Prime Minister, supervising regulatory issues and competition in key productive sectors, inter alia. Previously he was a Professor of Economics at the Carlos III University, where he also served as Dean at the Faculty of Law and Economics.

EDUCATION

The London School of Economics, Ph.D. (1995) and M.S. in Economics (1991)
Universidad de Valencia, Graduate Degree in Economic Science (1988)

AREAS OF EXPERTISE

- Commercial Litigation and Damages
- International Arbitration
- Regulation
- Antitrust/Competition
- Energy Markets
- Telecommunications and Media

LANGUAGES

Spanish (mother tongue), English, Italian, French. Read Portuguese.

RECENT EXPERIENCE

Arbitration and commercial litigation: Damages, Contract Renegotiation, Shareholders' Disputes

- **International arbitration involving electricity distribution assets in Latin America** – For a Latin American government, presented expert testimony before the UNCITRAL in relation to a dispute involving electricity distribution assets.
- **Commercial dispute involving the interpretation of an LNG contract** – For an energy company buying LNG under a long term sales and purchase agreement, presented expert testimony before the Madrid Arbitration Chamber analysing the rationale of the contract and the risks allocated to the parties.
- **Price renegotiation under an LNG long term sales and purchase agreement** – For a LNG producer and exporter presented expert testimony before an ICC tribunal discussing regulation in the Spanish market affecting the contract provisions.
- **Commercial dispute involving a Port Facility** – For a large investor in infrastructures, calculated damages resulting from delays in construction of a port facility in the Black Sea. Also calculated damages from competition from a new port facility in the region and performed a cost benefit analysis to determine the most appropriate schedule for the construction of the facility.
- **Commercial dispute in the financial market** – For a financial entity, analysed a claim presented by several investors on renewable energy plants in Spain to declare void previous financial agreements reached with the financial entity.
- **Commercial dispute in the LNG market** – For a consortium of foreign investors in Latin America, presented expert testimony before an ICC tribunal. The dispute related to a disagreement on the royalties payable for LNG exported to Europe.
- **Shareholders's dispute in the LNG market** – In several disputes between shareholders of a large LNG import company, presented expert testimony before ICC tribunals in a case involving estimates and comparisons of the benefits of alternative gas purchase and sales policies.
- **LNG Price review**– For an LNG producer, presented expert testimony before an ICC Tribunal in the context of a price review. Testified on regulatory issues in the destination market, which affected the potential outcome of the price review.
- **Natural gas contract price renegotiation** – For a Latin American company, presented expert testimony before the IACAC. Proposed a new gas pricing mechanism to reflect changes in market conditions, critiqued proposals by an opposing expert, and quantified the impacts of alternative proposals.
- **Dispute on damages following oil exploitation contract termination** – For a Latin American company, presented expert testimony before the IACAC. Produced two expert reports analysing the potential breach of environmental obligations in the contractor's operating agreement, and a dispute about payments due after contract termination.
- **Dispute about minimum guaranteed prices for electricity generation** – Presented expert testimony for an electricity generation company in an *ad hoc* arbitration. Analysed the economic rationale for the price provisions in a long term contract between the generation and the distribution company.
- **Dispute among shareholders of a gas storage facility** – For a large energy investor, presented expert testimony before an ICC tribunal analysing the economic rationale behind the agreement with other companies to finance and construct a large gas storage facility in Southern Europe.

- **Damages to an LNG buyer due to cancellation of deliveries** – For an energy company buying LNG under a long term sales and purchase agreement, presented expert testimony before the Madrid Arbitration Chamber analysing the reason behind the cancellation of deliveries by its gas supplier and the damages caused by the cancellation.
- **Dispute between shareholders of a natural gas project** – In ICC proceedings, presented expert testimony for a European gas company on the different incentives of shareholders in a joint project, and the damages to one shareholder caused by the other shareholder's veto of a proposal to declare *force majeure* with respect to certain gas sales contracts.
- **Price Renegotiation in Transmission Assets Sales and Purchase Agreement** – For a large utility in Southern Europe, presented expert testimony in the context of commercial litigation before the Commercial Arbitration Court in Madrid. The report discussed claims to renegotiate the sales price under a sale and purchase agreement for electricity transmission assets.
- **Damages to an Electricity Generation Company** - For an electricity company in Latin America, presented expert testimony in a commercial arbitration before an ICC tribunal. The report analysed the claims from the EPC contractor that allegedly resulted from the electricity company's interference in the construction process. The claim for damages included cost overruns and reputational harm to the parent company. In the same dispute, presented expert testimony related to the counterclaim. Estimated damages to the electricity company from delays and alleged negligence by the EPC contractor. The analysis covered both consequential damages and lost profits.
- **Dispute on LNG alleged re-exports** – For a large energy company, analysed alleged re-exports of LNG to more profitable destinations after unloading at an LNG terminal, in the context of a commercial dispute before an ICC arbitration tribunal.
- **Natural Gas and Natural Gas Liquids Sales and Purchase Agreement Price Review in Latin America** - For an energy company in Latin America, analysed a price review claim under a long-term sale and purchase agreement concerning natural gas and natural gas liquids. Evaluated alleged changes in the relevant markets and the price review proposals advanced by the other party. Provided testimony in arbitration proceedings before the IACAC.
- **Damages to a Waste Treatment Plant** - For a waste treatment company in Southern Europe calculated loss of profits derived from the delay and cancellation of the construction permits in an investor-state dispute submitted to ICSID. The report valued the project by reference to a DCF analysis.
- **Damages to a Renewable Energy Plant** - For a European renewable energy company, calculated lost profits associated with the delay and eventual cancellation of a large PV project due to various regulatory measures challenged in an investor-state dispute submitted to ICSID. The report valued the project in part by reference to a DCF analysis, and in part by reference to a careful analysis of offers made by potential investors and by the purchasers of convertible loans.
- **Damages to an LNG Producer** - For an energy company in Latin America, analysed an ICSID dispute concerning the calculation of royalties in the context of a long-term sale and purchase agreement for liquefied natural gas. The analysis included the calculation of damages.
- **Long-term Electricity Contract Review** – Assisted a European electricity company in response to an ICC claim to compel the renegotiation of prices in a long-term power sales and purchase agreement. Analysed changes in European electricity markets since 2004, and showed that the observed changes in the market were neither sufficiently large nor enduring to justify a revision of the price.

- **Natural Gas Sales and Purchase Agreement Extension and Price** - For an LNG supplier in an ICC arbitration, analysed the price-setting mechanism in an LNG long term sales and purchase agreement. In particular, analysed whether the history of the contract supported an extension to the duration of the contract, and if there was a competitive price for such an extension.
- **Damages and Contract Renegotiation for Airport Retail Services** - For a retail travel company in a breach-of-contract dispute before the Spanish Courts, prepared and signed an expert report analysing two economic issues. First, calculated damages related to a potential concealment of information at the time of contract signature. Second, assessed the evolution of the market after the start of the contract, and calculated the necessary adjustment to the contract to account for unexpected market changes.
- **Natural Gas Sales and Purchase Agreement Price Review in Europe** - For a large European energy company, analysed price review claims affecting natural gas in the context of a long term sale and purchase agreement. Evaluated evidence of changes in the relevant markets, contributed to defining a proposal for the price review, and analysed the proposals advanced by the opposing party.
- **Rate of Return for Gas Supply** - For a European natural gas buyer company engaged in ICC proceedings, demonstrated the lack of support for claims to an increase in the contract price. Calculated a reasonable return for the gas supply business.

Competition policy

- **Dispute on long-term financial agreements in the context of a cartel** – For an international bank facing claims in Spanish courts related to the alleged manipulation of interest rates, analysed the economic rationale for financial agreements signed with renewable energy investors.
- **Effects and Damages resulting from Abuse of Dominant Position in the Telecommunication industry** – For a telecommunications and broadcasting signal transmission company, analysed the effects of the abuse of dominant position by a competitor, and the resulting damages.
- **Price Squeeze in Telecommunications** - For a telecommunications company, presented expert testimony before the Spanish antitrust authority related to a potential abuse of dominant position through a price squeeze strategy. The report adapted the methodology traditionally applied to an individual company's dominant position, extending the methodology to address collective dominance.
- **Dominant Position in the Broadcasting Industry** - Presented expert testimony before the Spanish Courts on behalf of a broadcasting company. The expert report analysed a potential abuse of dominant position through 1) excessive minimum guaranteed payments, and 2) a price squeeze. The relevant markets were for transmission rights (upstream) and broadcasting (downstream) of a premium sports channel. Estimated damages associated with both alleged abuses.
- **Cartel investigation in regulated health products** – Presented expert testimony analysing the market for regulated health products in a European country. The testimony evaluated companies' behaviour under different regulatory regimes, since the late nineties to the present times; compared prices and costs for alternative distribution channels contemplated in the regulation; and discussed whether market structure and available price data were consistent with the alleged cartel activities. Presented the testimony to the relevant antitrust authority for consideration during an investigation.

PEDRO L. MARIN

- **CMA Retail Banking Market Investigation** – For a large financial institution, prepared reports and response documents to the CMA to inform an investigation initiated by the British antitrust authorities into competition, including potential abuses of individual and collective dominant positions.
- **Electricity Prices in Presence of Market Dominance** - For a large electricity consumer, showed how its electricity supplier had the incentive and ability to affect long-term market prices, distorting competition to its advantage.
- **Credit Cards** - For a company operating in the financial market, analysed the competitive price for corporate cards. For the same company, participated in several aspects of a competition case related to potential abuses of dominant position through excessive market prices.

Regulation and Advice to Investors

- **Regulatory Due Diligences in Gas Distribution and Transmission Assets** – In the context of three different transactions, for three different consortia of international investors, provided regulatory advice for a due diligence process related to gas distribution and transmission assets in Spain.
- **Investment in Renewable Energy** - For an investment fund, analysed regulatory incentives and risks in the renewable energy markets in Southern Europe and Latin America.
- **Electricity and Gas Distribution and Transmission charges in the European Union** – For an association of large energy consumers, analysed and compared electricity and gas network costs in seven EU countries, and provided advice about the most convenient locations to invest based on regulated energy costs.
- **Electricity Distribution in South America** – For an association of distribution companies in a South American country, advised on the government’s regulatory reform proposal, which sought to decouple energy consumption from economic growth by improving energy efficiency.
- **Cross-border Interconnections** – For a Latin American regulatory authority, analysed the advantages of interconnection with a neighbouring market, and qualitatively assessed the impact on efficiency, electricity prices, security of supply and market development.
- **Regulatory Changes in Electricity Generation** - For an electricity company, contributed to a report analysing regulatory changes and their potential impact on the generation of electricity by different technologies affected.
- **Renewable Energy Support in the U.S.** - For an American think-tank, prepared a report, which was subsequently published, comparing the alternative policies to foster the deployment of renewable energies in the U.S. and Europe, assessing the success and failure of the different alternatives, and deriving policy implications that could facilitate the design of new support policies in the U.S.
- **European Regulation** - For an electricity company, analysed several issues related to EU and domestic regulation and their potential impact on investments, market structure and prices.

PEDRO L. MARIN

PREVIOUS EXPERIENCE

2009-2011: **Secretary of State for Energy**, Spain's Ministry of Industry, Tourism and Trade

Responsible for Energy within the Spanish Government. In charge of electricity, gas and oil regulation, including nuclear as well as renewable technologies and energy efficiency. Led the energy liberalisation process in Spain. In particular, designed and implemented gas and electricity last resort tariffs (TUR) for the Spanish residential sector. Also promoted pioneer regulation for renewable energies, in particular, PV, CSP and wind power, and defined binding targets for biofuels and their certification procedure. Chaired the Council of Ministers of the European Union during the Spanish Presidency in 2010, and coordinated energy policy and initiatives with 17 Spanish Autonomous Regions.

2008-2009: **Secretary General for Energy**

2004-2008: **General Director**, Department of Welfare Society in the Economic Bureau of Spanish Prime Minister

Coordinated the launch and operation of the department in charge of coordinating and supervising microeconomic policy within the Economic Office. Responsibilities included: health, environment, energy, telecommunications, transportation, industrial and competition policy, research and development and infrastructure.

1996-2004 and

2011-2012: **Professor**, Department of Economics, Universidad Carlos III in Madrid

PUBLICATIONS

- Marín, P.L., and J.A. Garcia, 2013, “Hechos y retos de la energía en España: algunos elementos clave de una estrategia energética”, *Papeles de Economía Española*.
- Marín, P.L., Coronado, J, and S. Jimenez-Martin, 2013, “An empirical analysis of the multimarket contact theory in pharmaceutical markets”, *The European Journal of Health Economics*, 15(6), pp. 623-643.
- Marín, P. L., and Jurgen Weiss, 2012, *Reforming Renewable Support in the United States: Lessons from National and International Experience*, The Bipartisan Policy Center.
- Marín, P.L., 2012, “El dilema energético”, *Papeles de Economía Española*.
- Gagnepain, P. and P.L. Marín, 2010, “The effects of airline alliances: What do the aggregate data say?”, *Journal of the Spanish Economic Association: SERIEs*, 1, pp. 251-276.
- Marín, P.L. and G. Siotis, 2007, “Innovation and Market Structure: An Empirical Evaluation of the ‘Bounds’ Approach in the Chemical Industry”, *Journal of Industrial Economics*, 55 (1), pp. 93-111.
- Gagnepain, P. and P.L. Marín, 2006, “Regulation and Incentives in European Aviation”, *Journal of Law and Economics*, 49 (1), pp. 229-48.
- Marín, P.L., and R. Sicotte, 2003, “Exclusive Contracts and Market Power: Evidence from Ocean Shipping”, *Journal of Industrial Economics*, 51 (3), pp. 193-213.
- Hernán, R., Marín, P.L., and Siotis, G., 2003, “An Empirical Evaluation of the Determinants of Research Joint Ventures”, *Journal of Industrial Economics*, 51 (1), pp. 77-91.
- García-Díaz, A. and Marín, P.L., 2003, “Strategic Bidding in Electricity Pools with Short- Lived Bids: An Application to the Spanish Market”, *International Journal of Industrial Organization* 21 (2), pp. 201-222.
- Marín, P.L. and N. Fernández, 1998, “Market Power and Multimarket Contact. Some Evidence from the Spanish Hotel Industry”, *Journal of Industrial Economics*, 46 (3), pp. 301-315.
- Marín, P.L., 1998, “Productivity Differences in the Airline Industry: Partial Deregulation versus Short Run Protection”, *International Journal of Industrial Organization*, 16, pp. 395-414.
- Marín, P.L., 1995, “Competition in European Aviation: Pricing Policy and Market Structure”, *Journal of Industrial Economics*, 43 (2), pp. 141-160.

PRESENTATIONS

- The new challenges of efficient energy markets: development, technology and energy products. International University Menéndez y Pelayo. Santander, July 18-19, 2011.
- Nuclear and Renewable energy technologies and their development in Southern countries. The Assilah Forum Foundation, Assilah, July 8-9, 2011.
- Areas of collaboration between International Organisations and National Agencies. European Energy Network, Rome, March 3, 2011.
- Energy Efficiency and renewable energy, a virtuous circle. COP 16. European Parliament Side Event, Cancun, December 9, 2010.
- Matching EU Policy and practical experience with India's potential. DIREC (Delhi International renewable Energy Conference). New Delhi, October 25-27, 2010.
- Key Note Speech. General VIII Assembly ENTSO-E. Madrid, June 22, 2010.
- Opening Session. High Level Conference on European Energy Infrastructure; Perspectives for a new European Energy Security and Infrastructure Instrument. Madrid, May 28, 2010.
- Regulatory Framework and Development of Wind Energy in Spain. 2010 Windpower. Dallas, May 23-26, 2010.
- Key Note Speech. Opening Session VIII Conference FEMIP (European Investment Bank). Valencia, May 10, 2010.
- ECF Speech; Decarbonisation Roadmaps for EU-27. EU2050. Brussels, April 13, 2010.
- Key Note Speech. Meeting of the EU, Latin American and Caribbean regulators (Association of Latin-American Energy Regulators). Madrid, April 8, 2010.
- Global Energy Dialogue; the path to the future. International Energy Forum. Cancun, March 29, 2010.
- Innovative Solutions to Address Climate Change and Enable Economic Growth. US-Spain Business Sustainability Forum. Los Angeles, October 26, 2009.
- Spanish Wind Market: Current Status and Future. International Wind Update. Chicago, May 5, 2009.
- After the Credit Crunch. Energy Crunch? Closing Session Development and Progress Association, Conference Energy Crunch. Madrid, November 17, 2008.
- Mitigation and Climate Change; housing and transport. International University Menéndez y Pelayo. Santander, July 31, 2008.
- Key Note Speech. Presentation of the World Energy Outlook in Spain (International Energy Agency). Madrid, 2008 and 2009.
- The Spanish situation in the international energy markets. War and peace in the 21st century. Geopolitics of energy. Fundació CIDOB. Barcelona, January 20, 2007.