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Environmental Law Program  
POLICY INITIATIVE

# POWER OVER THE U.S. ELECTRIC GRID

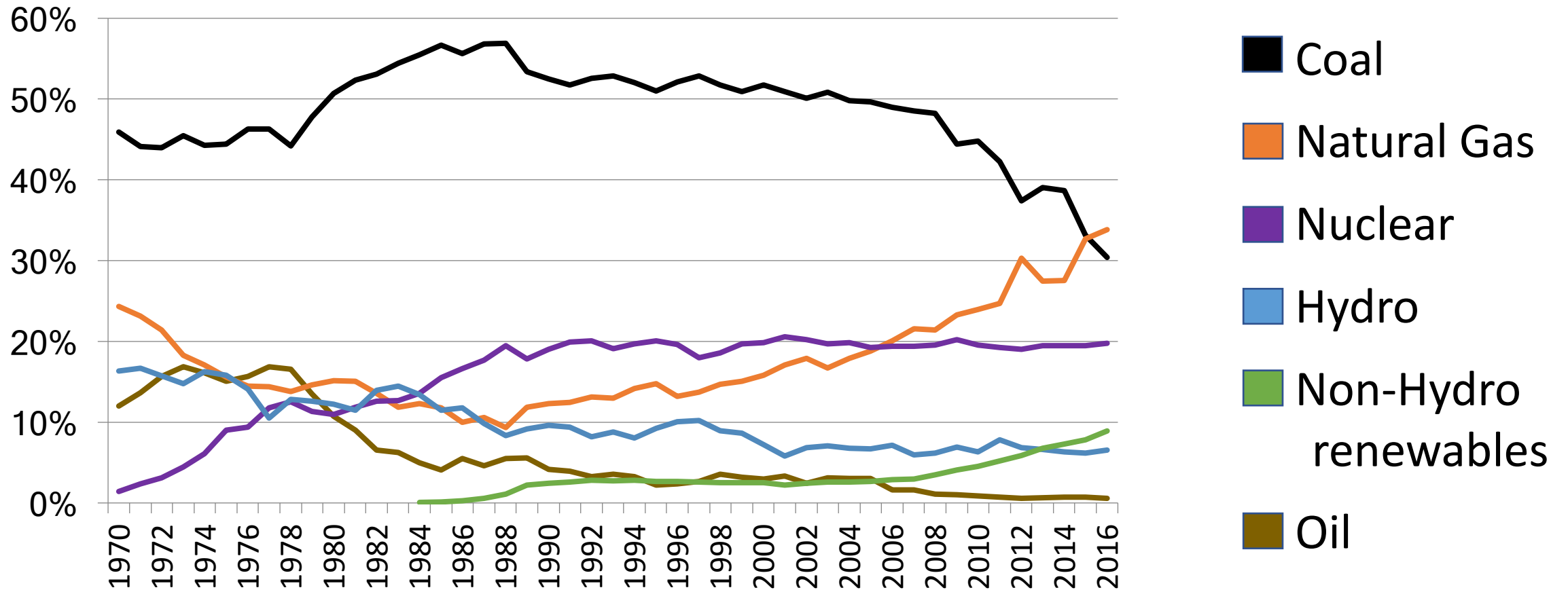
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# What Powers the Grid?



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# Presentation Outline

- I. Why regulate electricity providers?
- II. Why did regulation used to be simple(r)?
- III. Why did regulation get legally complicated?
- IV. Who's in charge?
  - I. Zero Emission Credits in New York and Illinois
  - II. U.S. DOE's "Resiliency Pricing" Proposal



# I. Why Regulate Electricity Providers?



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# I. Why Regulate Electricity Providers?



## BIGGEST POWER POOL TO SERVE 2 STATES

Three Utility Companies Form  
System for Pennsylvania  
and New Jersey.

TO BE IN OPERATION BY 1930

3 Transmission Lines Totaling  
208 Miles to Cost \$26,000,000  
—New Plant at Conowingo.

Formation of what is probably the  
world's largest electric power pool  
was announced yesterday. This  
latest and greatest of superpower  
systems will cover the industrial dis-  
tricts and main cities of New Jersey  
and, with the exception of Pitts-

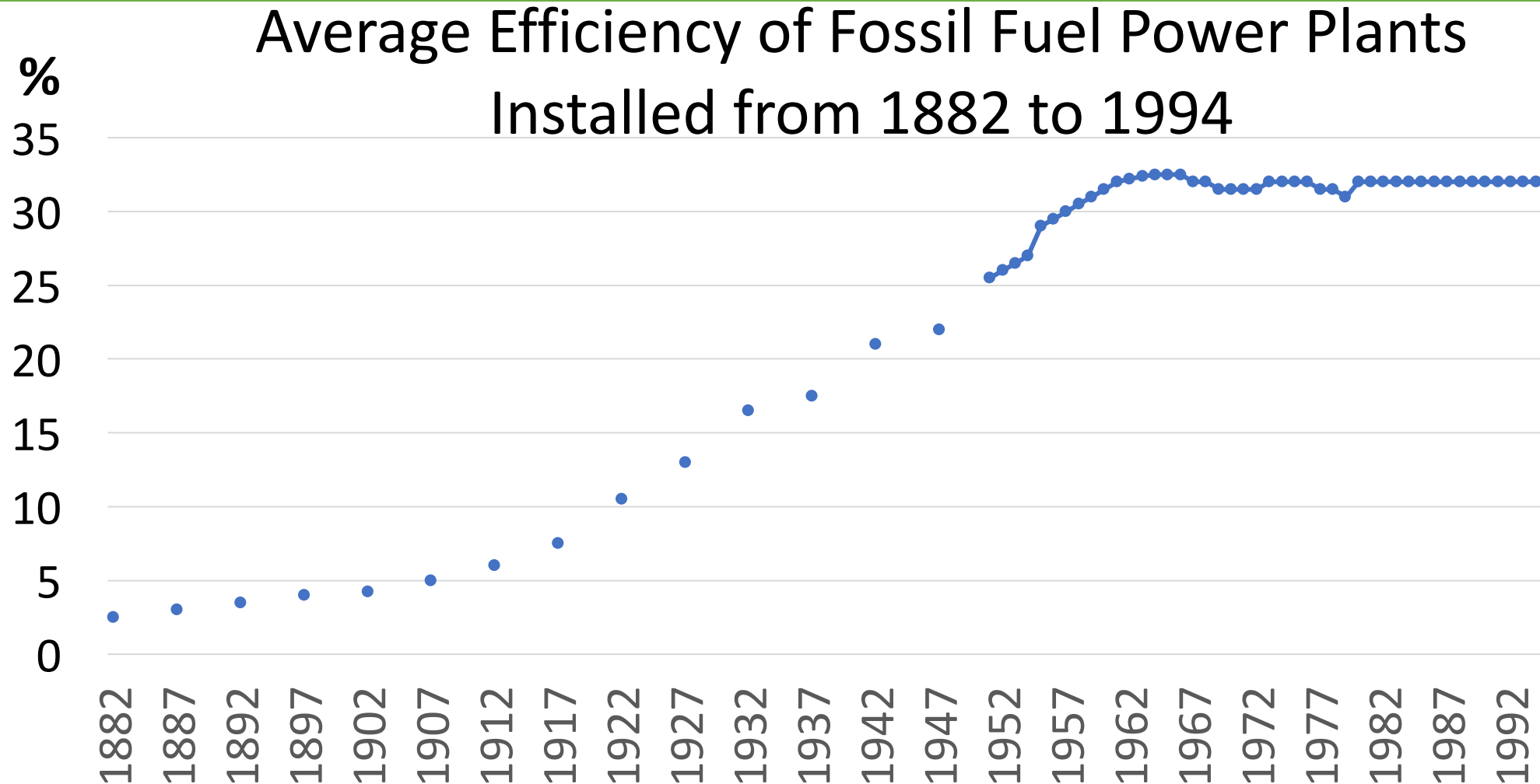
The interconnection will make possible diversification, dependability, and concentration of power on an enormous scale. . . . The three companies in the superpower system are among the largest in the United States.



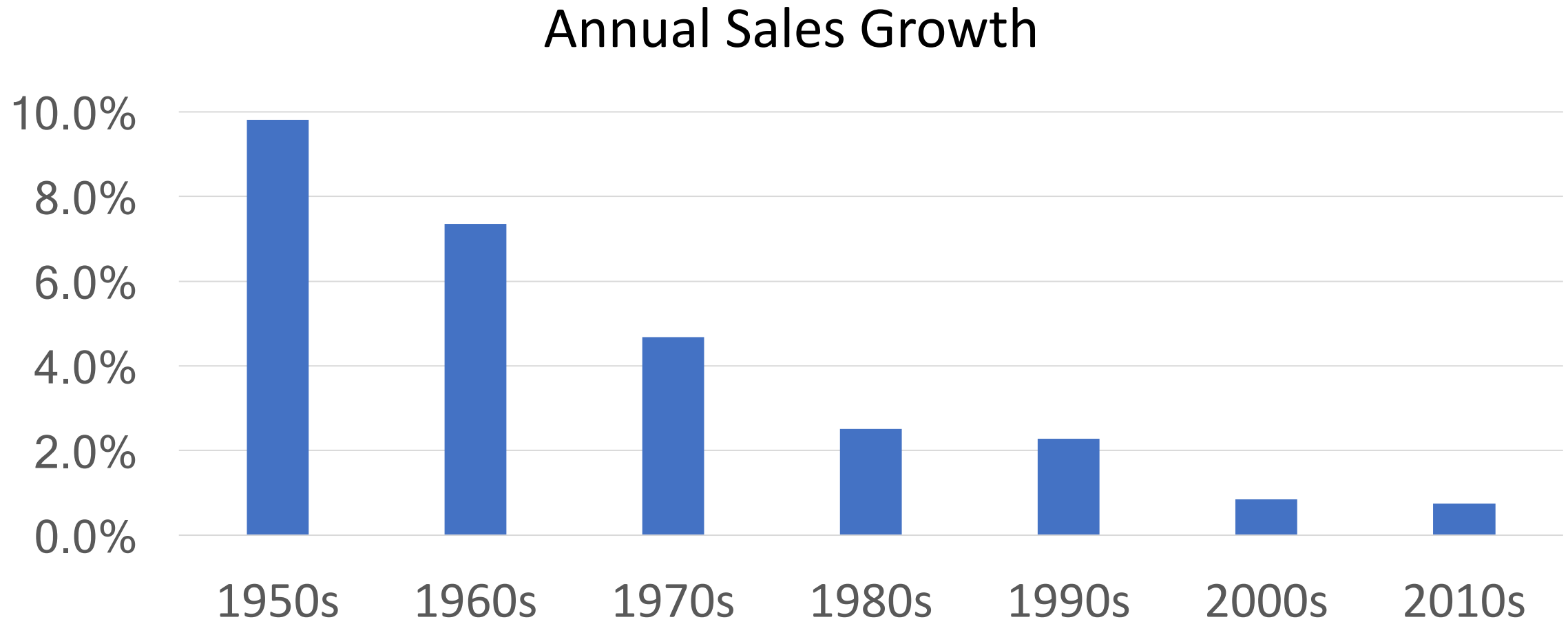




## II. Why Did Regulation Used to be Simple(r)?



## II. Why Did Regulation Used to be Simple(r)?

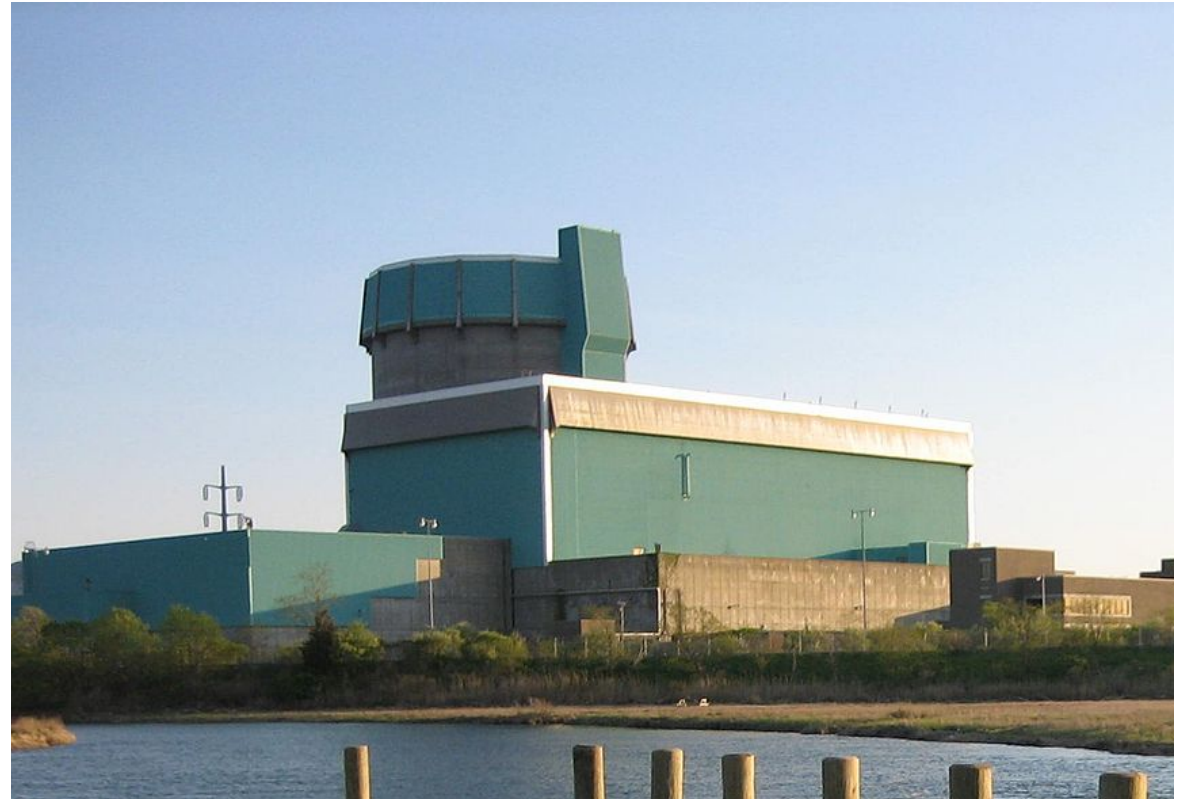
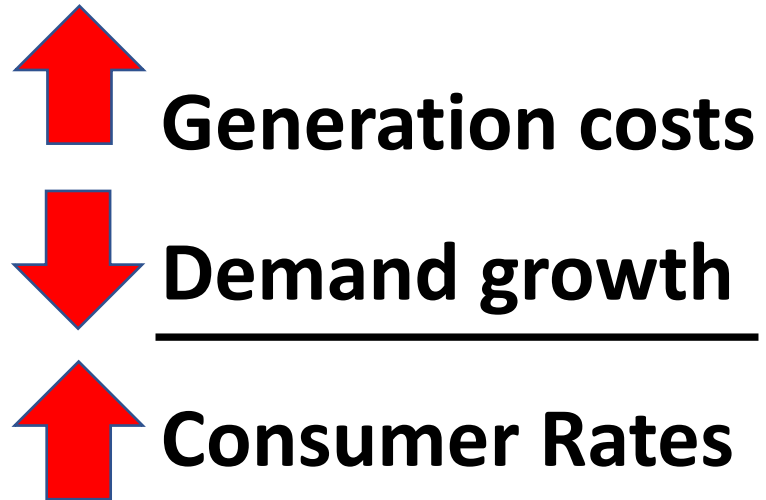


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# III. Why Did Regulation Get Complicated?



Shoreham Nuclear Plant, New York

- Cost - \$6 billion
- 0 MWh produced

# III. Why Did Regulation Get Complicated?

States react with new mandates and processes

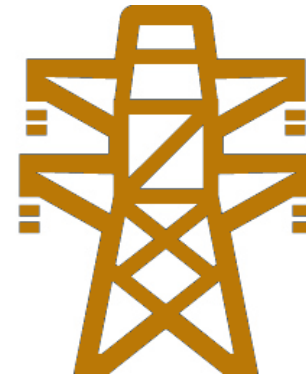
- *Integrated Resource Planning* aims to pick an efficient portfolio of resources to meet consumer demand that considers:



Building new plants



Saving energy



Purchasing power



# III. Why Did Regulation Get Complicated?

## Vertically Integrated Utility



***1900 – 1990s***

## Wires-Only Utility



***Post-Restructuring***



# III. Why Did Regulation Get Complicated?

## “Restructured” States



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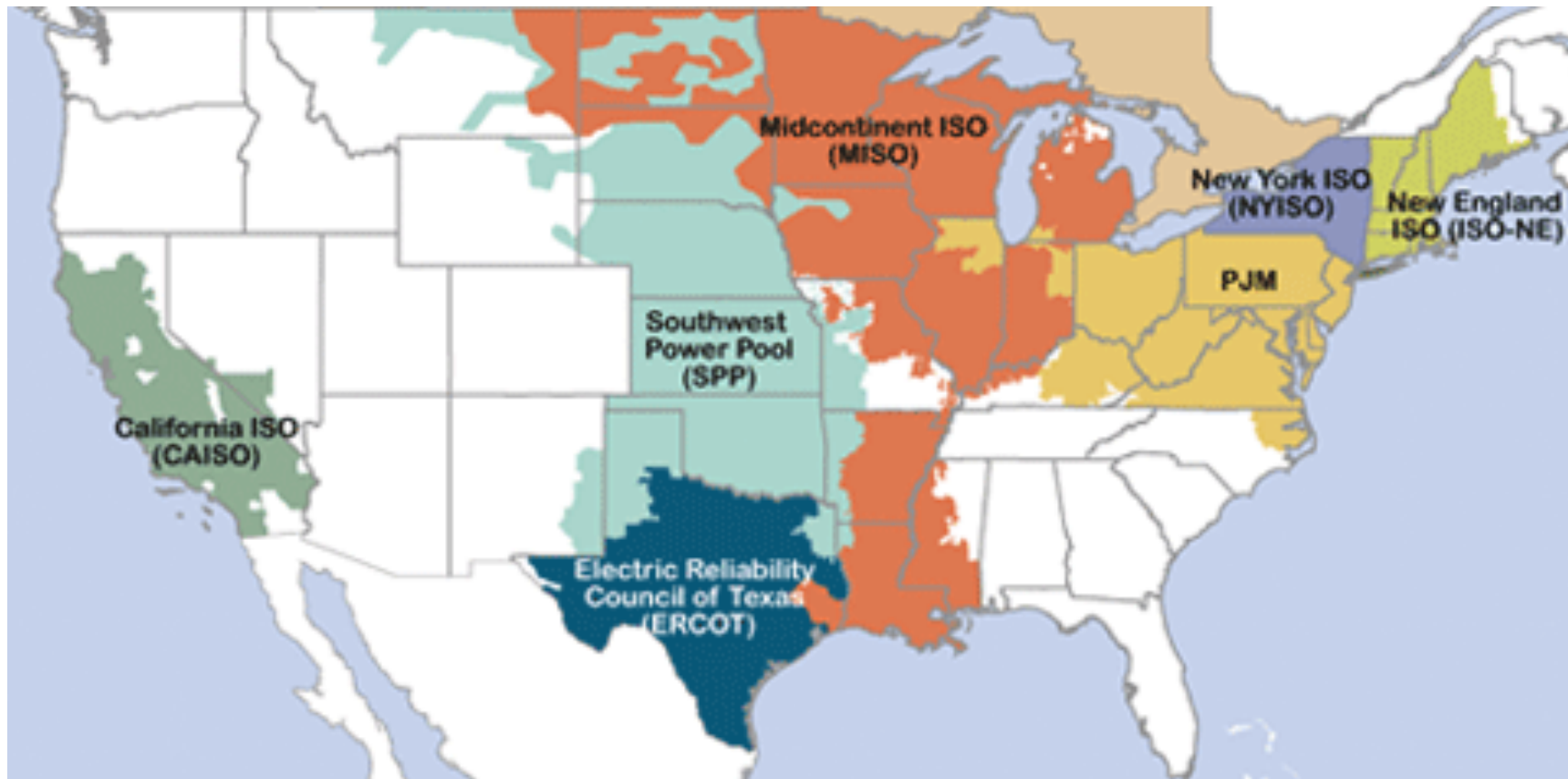
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# III. Why Did Regulation Get Complicated?

## FERC-Regulated Markets (except Texas)



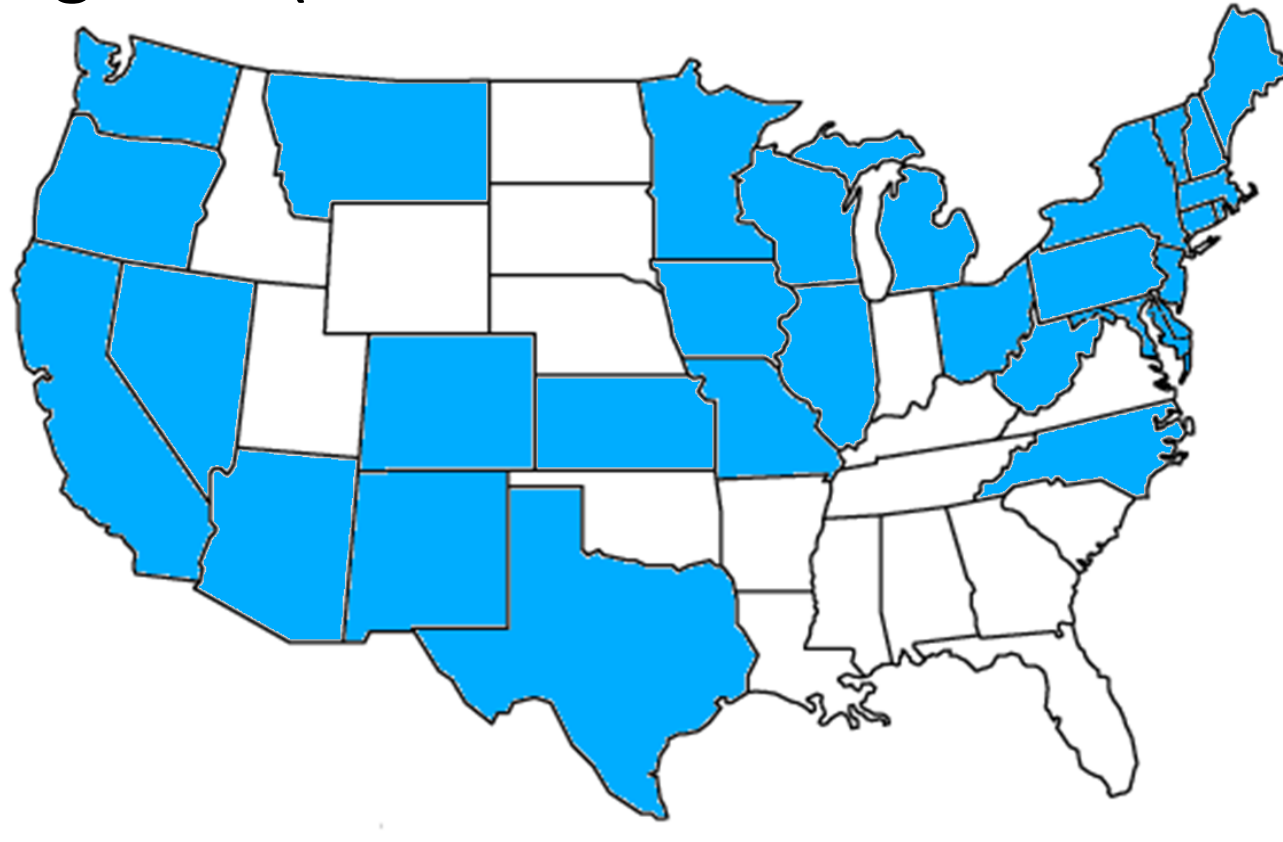
# III. Why Did Regulation Get Complicated?

- Shift in industry economics
- Shift in Federal regulation from cost-of-service to market oversight
- Shift in State regulation of electric generation

### III. Why Did Regulation Get Complicated?

## State Policy Innovation:

- Energy Credit Programs (aka Renewable Portfolio Standards)



# IV. Who's In Charge?

## New York and Illinois Zero Emission Credits (ZECs)

- Allows state-selected nuclear generators to produce ZECs
- Requires utilities to purchase ZECs
- Pegs credit price to social cost of CO<sub>2</sub>
- Adjusts credit price downward if wholesale rates go up

# IV. Who's In Charge?

*Legal Challenge: Do ZECs regulate FERC-jurisdictional wholesale sales in interstate commerce?*

- May a state incentivize energy production, or would that necessarily regulate an energy sale?
- May a State reward avoided pollution?
  - May it dictate the price of that reward?
  - May that price be linked to a FERC-jurisdictional price?

# IV. Who's In Charge?

*ZECs are currently pending before the 2nd and 7th Circuits*

- If ZECs are legal – what are the consequences for markets?
- If ZECs are preempted – how can states incentivize clean energy?

# IV. Who's In Charge?

## DOE's "Resiliency Pricing" Proposal

- Invokes rarely used authority under the law that created DOE
- Would provide coal and nuclear units in Eastern markets with cost-of-service regulation
- Asserts that these "fuel-secure" units improve the grid's "resilience" and are necessary for national security



# IV. Who's In Charge?

- FERC-regulated market rules do not explicitly favor one fuel over another, but markets may value a resource's attributes, such as its ability to produce energy on demand, or to quickly change its output
- FERC rules very rarely explicitly target specific resource types



# IV. Who's In Charge?



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