



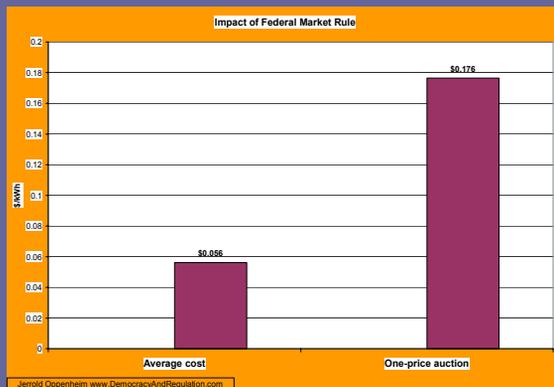
The Prospects of Re-regulation: Options for State Level Reforms

Take Back the Power
National Press Club, Washington
February 26, 2007

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“Restructuring” ≠ Deregulation!



New England, including LICAP & losses

Fuel	Illustrative cost	Average use	On the margin
Gas	\$0.08	30%	55%
Nuclear	\$0.03	30%	
Oil	\$0.06	15%	35%
Coal	\$0.04	15%	15%
Hydro	\$0.02	5%	
Wind/Refuse	\$0.06	5%	
		\$0.056	\$0.085

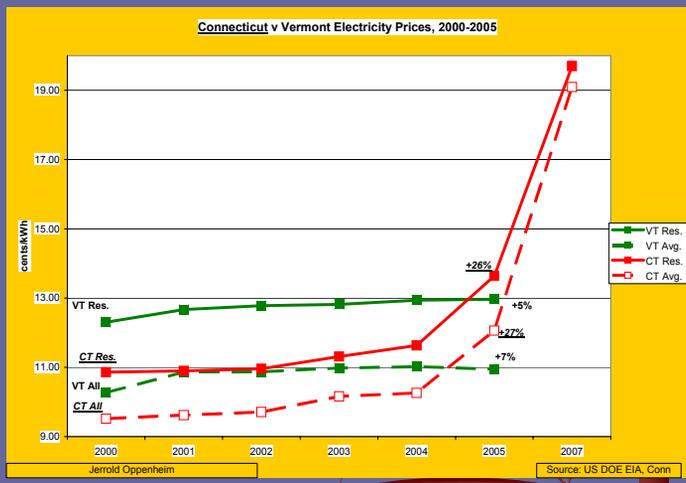
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Same Pool, Different Regulation

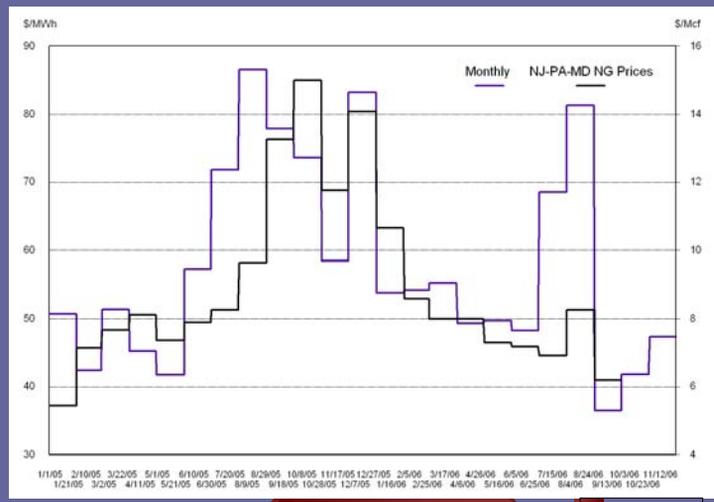


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Electricity prices do not follow gas



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How restore state regulation?

- Probably not all at once
- Union labor
- Long-term planning horizon
- Cost of service
- Carrots and sticks



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Pre-approval

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Public Power Authority

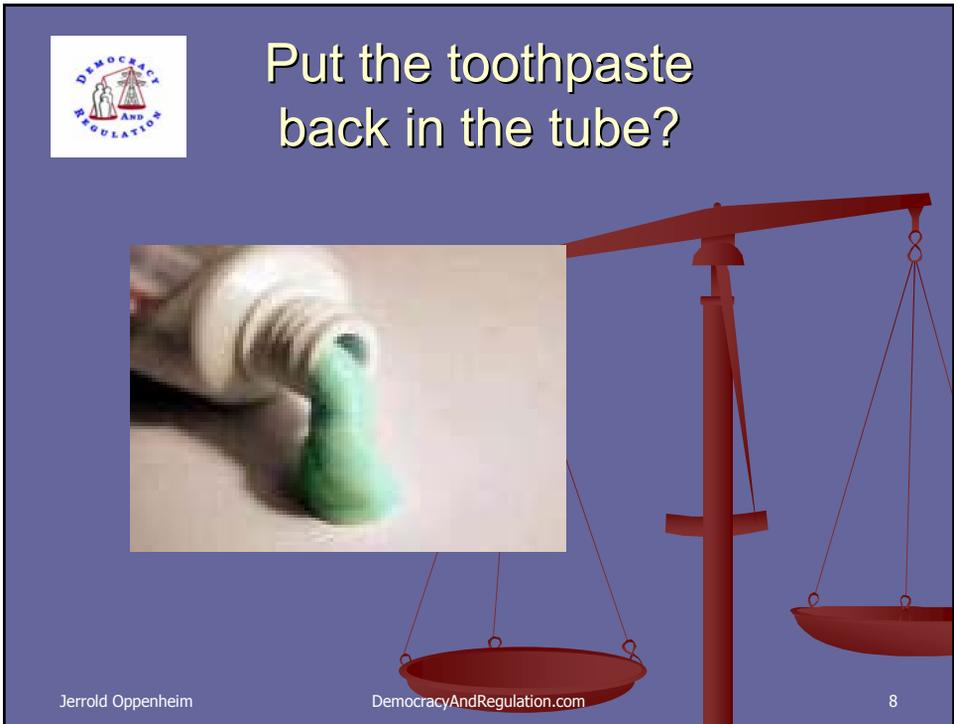
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Put the toothpaste back in the tube?



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Invent a new tube



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Low-income assistance

- Fuel assistance and supplements
- Energy efficiency
- Discounts
- Percent of Income Payment Plan
- Arrearage management



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The Economics of Poverty:
How Investments to Eliminate Poverty
Benefit All Americans

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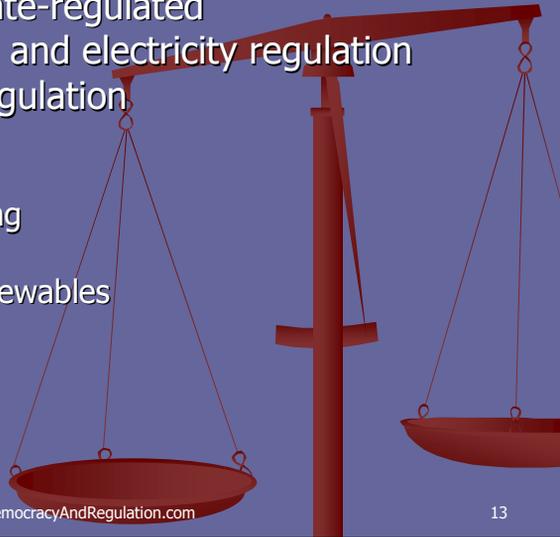
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ADDITIONAL MATERIAL

- Restructured v state-regulated
- History of railroad and electricity regulation
- Restoring state regulation
 - Labor
 - Cost-of-service
 - Long-term planning
 - Mergers
 - Efficiency and renewables
 - Low-income
- Bad ideas
- Short-term



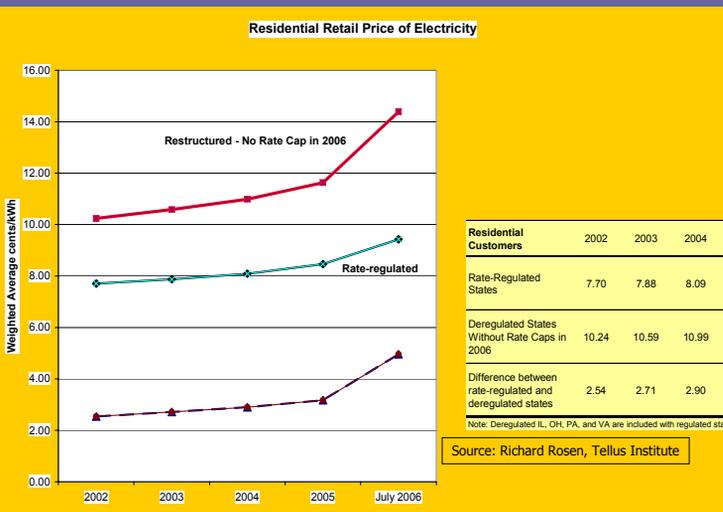
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Price Increases, Restructured v State-regulated



Residential Customers	2002	2003	2004	2005	July 2006	Average Annual Growth from 2002
Rate-Regulated States	7.70	7.88	8.09	8.46	9.43	5.19%
Deregulated States Without Rate Caps in 2006	10.24	10.59	10.99	11.64	14.39	8.88%
Difference between rate-regulated and deregulated states	2.54	2.71	2.90	3.17	4.96	18.24%

Note: Deregulated IL, OH, PA, and VA are included with regulated states due to existing price caps

Source: Richard Rosen, Tellus Institute

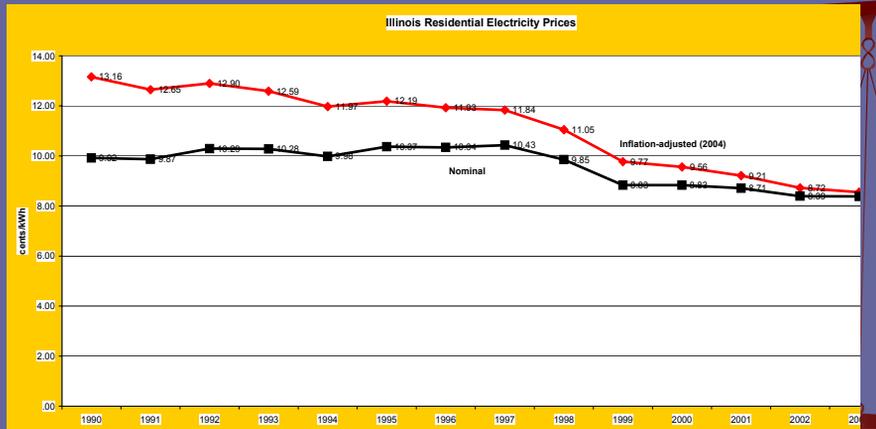
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Illinois cost-of-service rates



Source: US DOE EIA

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APPA Electric Market Reform Initiative (Feb. 5, 2007)

- Very high returns (20%+) for formerly regulated integrated utilities that kept generation in separate unregulated subsidiary – E. Bodmer
- All studies to date tell us nothing reliable about customer benefits from restructuring – Prof. J. Kwoka (Northwestern)
- Price increases driven by load, not explained by fuel prices – K. Rose (Michigan State)
- Impact of hourly auction is that PJM electricity price markup above cost as high as 14% over cost of marginal unit, and that does not count markup [see first slide] of marginal unit price over inframarginal costs of e.g., coal or nuclear (London Economics, Synapse Energy Ecs.)
- Most RTO costs have risen sharply per mWh, e.g., New England 84%, MISO 73%, though PJM costs down with growth (GDS Associates)
- Deregulation driven by “something for nothing” ethic that has driven America since the land rush – Prof. W.G. Shepherd (UMass.-Amherst)

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Exelon

- Return on Common Equity (2001-2005, Value Line): 20%
- Return on Common Equity (2006-2010, Bodmer proj.): 18% - 20%
- Regulated Return on Common Equity (2001-2005, Value Line): 10.5%
- Value of difference to ComEd/Unicom equity investors (10 yrs, Bodmer)
~ \$32B
- S&P 500 Return on Common Equity (10 years): 6.8%

Source: Edward Bodmer, financial consultant, former energy loan analyst at First Natl Bank of Chicago



Common Dangers of Deregulation

Dr. William G. Shepherd
Emeritus Professor of Economics, University of Mass. at Amherst

- Too Quick, Too Far, and Badly Designed
 - California, et al.
- Abuses by the Former Monopoly Firm
 - Predatory Pricing
- Lax Permission for Anti-Competitive Mergers
- Weak Antitrust
 - And Weak Regulation
- Result: An Entrenched Dominant Firm



Railroads – 19th Century

- STATES GRANTED RIGHT OF EMINENT DOMAIN
- STATES GRANTED MONOPOLY CHARTERS
- FEDS GAVE FREE LAND FOR CROSS-COUNTRY
- NATURAL MONOPOLIES
- PROVIDED AN ESSENTIAL SERVICE
- HIGH BARRIERS TO ENTRY
- NO GOOD SUBSTITUTES
- UNECONOMIC TO DUPLICATE

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Abuses

- CREATED FAKE CONSTRUCTION COMPANIES
- WATERED STOCK
- PYRAMIDS

- REMEDIES
- NATIONALIZE? ---- NO!
- MASSACHUSETTS BOARD OF RR COMMISSIONERS – 1869
- BARGAIN: REASONABLE PROFIT FOR ESSENTIAL SERVICE

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Electricity – Early 20th Century

- **30 ELECTRIC COMPANIES IN ONE CITY**
- **CONSOLIDATION**
 - **BY 1920'S END, 10 UTILITIES CONTROLLED 75% OF ELECTRIC POWER**
 - **BY 1922, 2500 MUNIS LESS THAN 4%**
- **POPULIST MOVEMENT THREATENING**

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State regulation

- **AVOID PUBLIC OWNERSHIP**
- **LEND LEGITIMACY TO MONOPOLIES**
- **GRANT LONG-TERM FRANCHISES**
- **PROMOTE INVESTMENT**
- **1907 -- WISCONSIN REGULATORY COMM. FOR ELECTRICITY --BY 1921, MOST STATES HAD UTILITIES COMMISSIONS**

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Abuses through the 1930s

- **HOLDING COMPANIES BUYING UP ELECTRIC, COAL, GAS, CONSTRUCTION COMPANIES**
- **PYRAMIDS**
- **FTC REPORT (1928-1935): 19 CATEGORIES OF ABUSE**
 - **UNSOUND ASSETS, PAPER PROFITS**
 - **MISMANAGEMENT, EXPLOITATION OF OPERATING COMPANIES**
 - **UNSOUND ACCOUNTING PRACTICES**
- **HOLDING COMPANIES TO EVADE STATE REGULATION**
- **BY 1930's, IOUs OWNED 94% OF POWER GENERATION**
- **ONLY 10% OF FARMS ELECTRIFIED**

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Federal regulation

- **FEDERAL PUBLIC POWER ACTS**
 - **TVA IN 1933**
 - **REA IN 1936**
 - **BPA IN 1937**
- **SEC IN 1934**
- **PUHCA IN 1935 (repealed 2006)**
- **FPA IN 1935**
 - **FPC TO REGULATE WHOLESALE TRANSACTIONS AND TRANSMISSION (now FERC)**
- **MANDATED RATES: "REASONABLE, NONDISCRIMINATORY, AND JUST TO THE CONSUMER"**

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1940s-1990s

- **HOLDING COMPANIES: FROM 216 TO 18 BET. 1938 AND 1958**
- **OPERATING COMPANIES REGULATED BY STATES**
- **STEADY DECLINE IN PRICES UNTIL OIL AND NUCLEAR SPIKES**
- **JERRY AND THEO BECOME ACTIVISTS – AND AUTHORS**

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How restore state regulation?

- **Probably not all at once**
- **Union labor**
- **Long-term planning horizon**
- **Cost of service**
- **Carrots and sticks**

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States going back include...

- California
- Montana
- Connecticut?
- Rhode Island
- Maryland
- Delaware
- Nevada
- Arkansas



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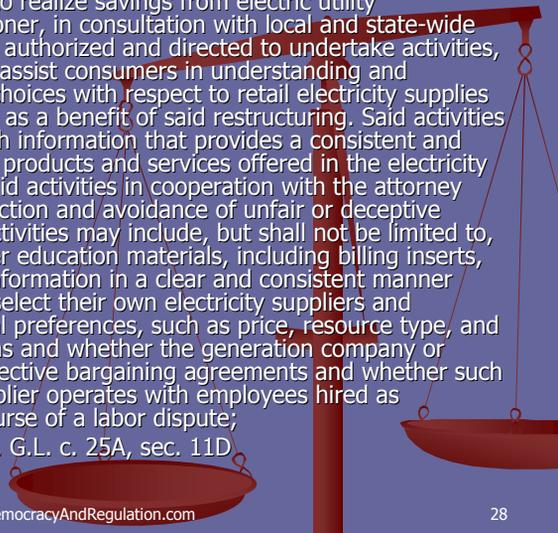
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Labor: disclosure

- To enable retail customers to realize savings from electric utility restructuring, the commissioner, in consultation with local and state-wide consumer groups, is hereby authorized and directed to undertake activities, subject to appropriation, to assist consumers in understanding and evaluating their rights and choices with respect to retail electricity supplies and related services offered as a benefit of said restructuring. Said activities shall provide consumers with information that provides a consistent and reliable basis for comparing products and services offered in the electricity market and shall develop said activities in cooperation with the attorney general to assist in the detection and avoidance of unfair or deceptive marketing practices. Said activities may include, but shall not be limited to, (i) development of consumer education materials, including billing inserts, providing consumers with information in a clear and consistent manner empowering consumers to select their own electricity suppliers and products based on individual preferences, such as price, resource type, and environmental considerations and whether the generation company or supplier operates under collective bargaining agreements and whether such generation company or supplier operates with employees hired as replacements during the course of a labor dispute;

St. 1997, c. 164, sec. 50; Mass. G.L. c. 25A, sec. 11D



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Labor: freeze

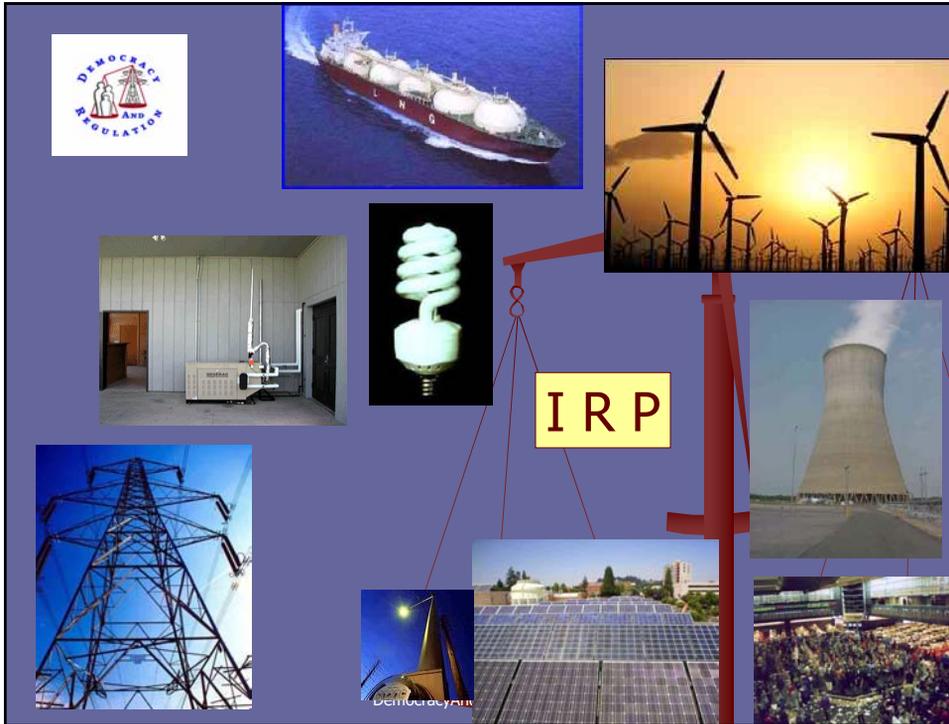
- (b) In complying with the service quality standards and employee benchmarks established pursuant to this section, a distribution, transmission, or gas company that makes a performance based rating filing after the effective date of this act shall not be allowed to engage in labor displacement or reductions below staffing levels in existence on November 1, 1997, unless such are part of a collective bargaining agreement or agreements between such company and the applicable organization or organizations representing such workers, or with the approval of the department following an evidentiary hearing at which the burden shall be upon the company to demonstrate that such staffing reductions shall not adversely disrupt service quality standards as established by the department herein. Nothing in this paragraph shall prevent reduction of forces below the November 1, 1997 level through early retirement and severances negotiated with labor organizations before said date.

St. 1997, sec. 193; Mass. G.L. c.164, sec. 1E



Objective: Cost of service

- **Pull out of the market**
- **Pull out of the ISO if cost > benefit (Maine?)**
- **Aggregation is a market solution**
- **To extent rely on market, build enough capacity to push prices toward cost**



 **Integrated Resource Planning**

- Long-term planning horizon
- Optimal plan with multiple objectives
- Cost of Service generation
- Builder of Last Resort (utility or public power) to discipline market and/or assure power
- Efficiency
- Renewables
- Public goals

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Other issues

- Merger jurisdiction
- Low-income supports
- SBF for EE, RE, other public goods

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Efficiency

- Massachusetts
- Arkansas
- Survey

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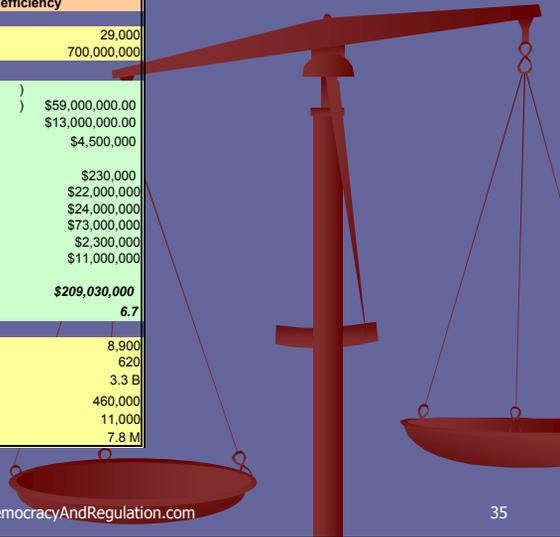
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Low-income energy efficiency pays for itself

Benefits of one mill (\$1/month) for low-income efficiency	
Low-income homes served	29,000
KWH saved (life of measures)	700,000,000
Customer savings)
Savings to other ratepayers (arrear, shut-offs)) \$59,000,000.00
Saved water	\$13,000,000.00
Saved moving costs	\$4,500,000
Increased earnings of children (from staying in school without being homeless)	\$230,000
Avoided fire damage	\$22,000,000
Saved uninsured medical costs & lost work	\$24,000,000
Increased property values	\$73,000,000
Net GDP gain	\$2,300,000
Net wage & salary gain	\$11,000,000
Total of these savings (life of measures)	\$209,030,000
as multiple of cost (BCR)	6.7
Families saved from homelessness	8,900
Net new jobs	620
Gallons of water saved	3.3 B
CO ₂ saved (Tons)	460,000
Equivalent to removing cars	11,000
Natural gas saved (MCF)	7.8 M



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Renewables



Renewables

Renewable Energy Potential

- Solar (Total solar radiation of 6.0 or more kilowatthours per meter squared per day)
- Wind (min. power class 4)
- Geothermal (min. surface heat of 80 milliwatts per meter squared)

Electric Power Plants

(Values shown are U.S. totals)

- Hydro (183)
- Geo (4)
- Wind (31)
- Biomass (2)
- Wood (8)
- Solar (2)

Source: US DOE EIA

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Some bad ideas

- Pre-payment (CWIP)?
- One-issue rate "adjustments"?
- Deferred rate increases (price caps)
- Keep potential retail "competition"?
 - Risks without benefits
- IRP?
 - Still relies on wholesale market if bidding
- Time of use prices for small customers
- Decouple?
 - Maybe, with conditions

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Short-term

- Windfall profits tax
- Efficiency (especially for low-income)
- Low-income assistance

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How Investments to Eliminate Poverty
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About the Speaker

Jerrold Oppenheim is an independent consultant and attorney who has advised and represented low-income and other utility consumer advocates, government agencies, labor, and utilities across the country for more than 35 years. A graduate of Harvard College and Boston College Law School, he led utility litigation and argued precedent-setting cases for four Attorneys General in New York State and Massachusetts; for Legal Services in Boston, Chicago and New York City; and for the National Consumer Law Center. He is a member of the Center for Public Utilities Advisory Council, New Mexico State University, and has spoken and published on four continents, including *Democracy And Regulation* with Theo MacGregor and Greg Palast, published by Pluto Press (London) and winner of the ACLU Upton Sinclair Award.

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