Protecting Kansas Ratepayers and Families from EPA's Carbon Rule

Kansas Senate Utilities Committee

January 28, 2016

Hubbel Relat

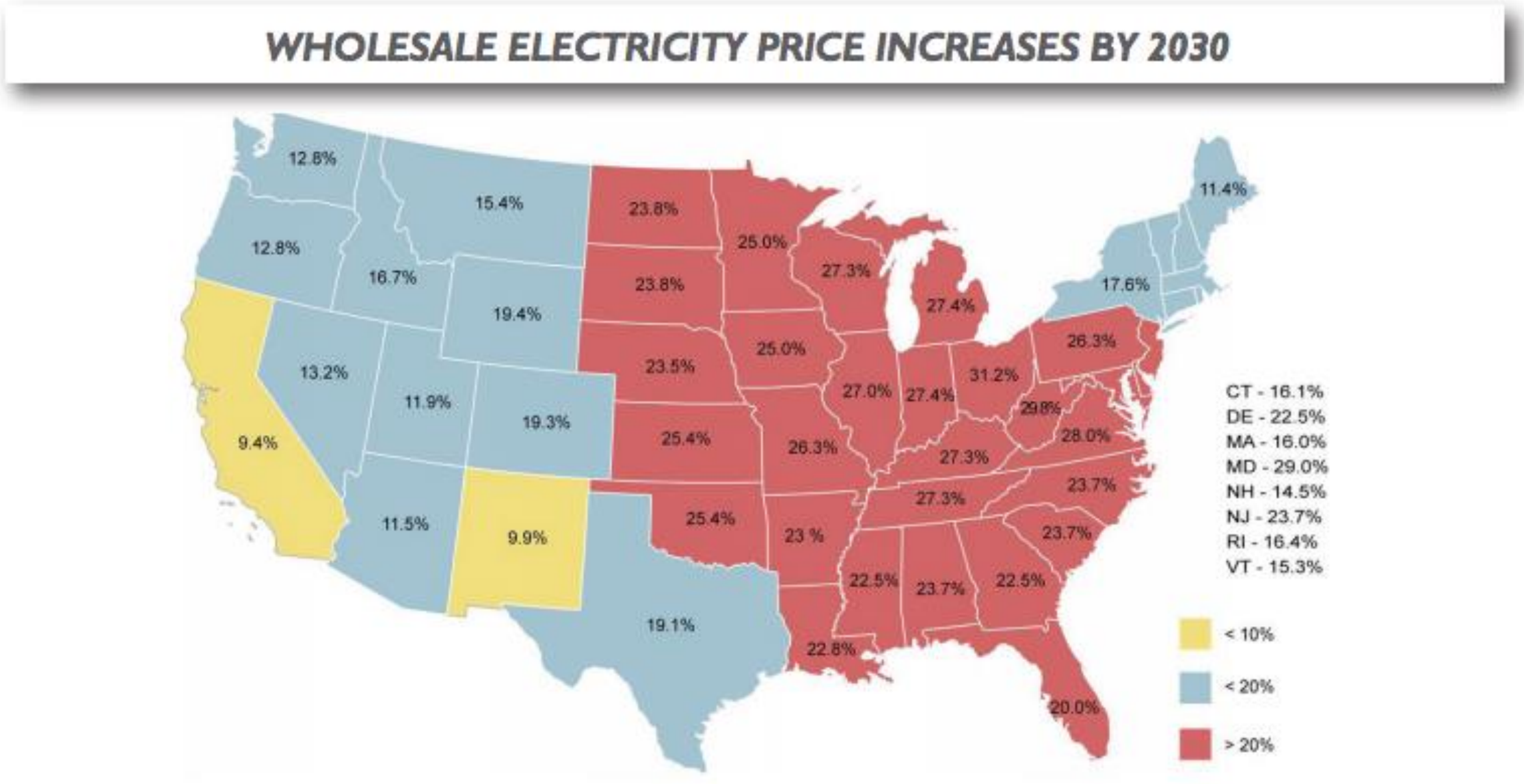
VP of State Policy & General Counsel

AEA AMERICAN ENERGY ALLIANCE

Overview

- Final Rule Requirements and Projections
- “Do No Harm” Approach
- Recommendations for Kansas

State Impacts of Carbon Rule

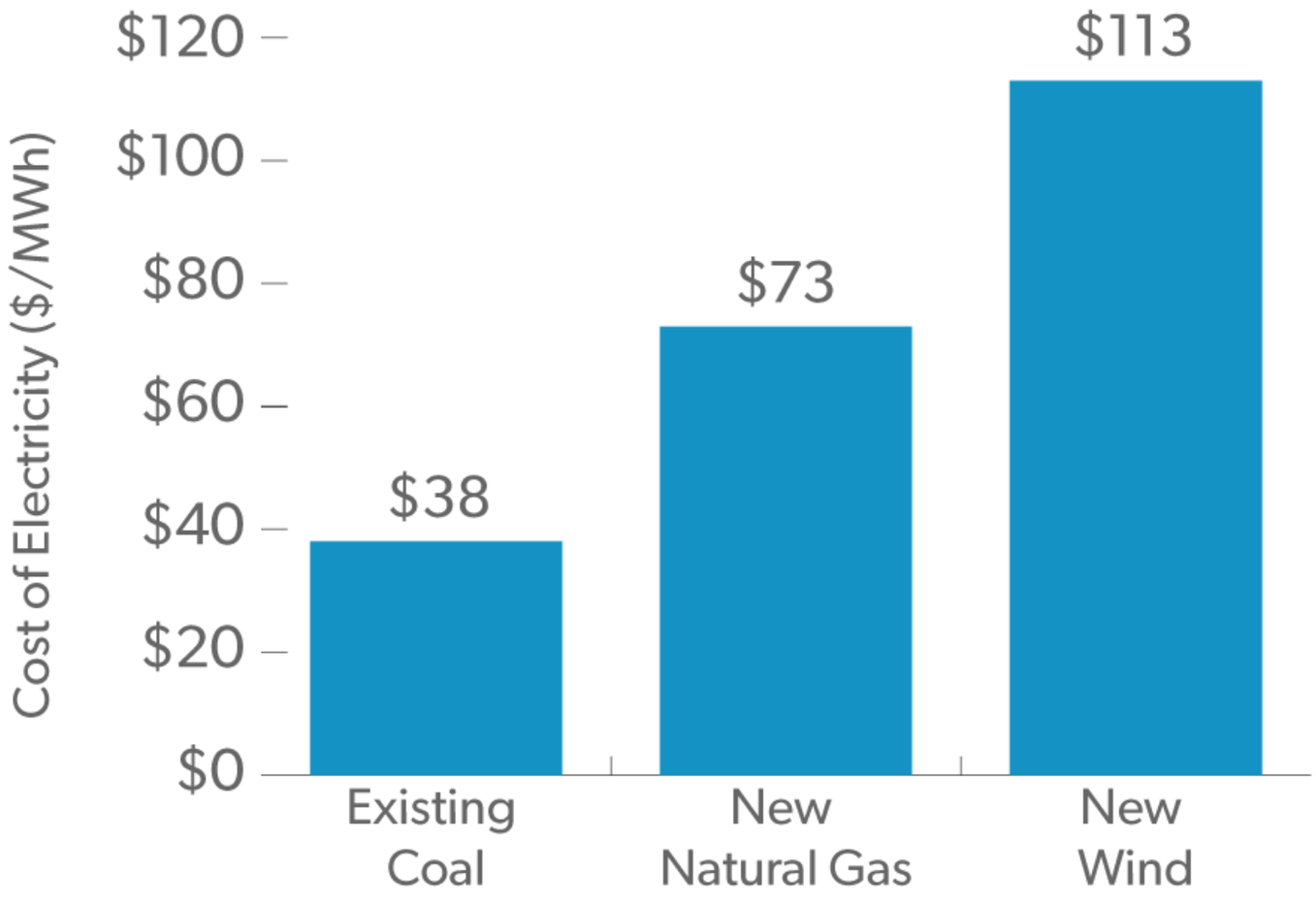


Source: Energy Ventures Analysis

Out with the Old, in with the New: An Expensive Proposition

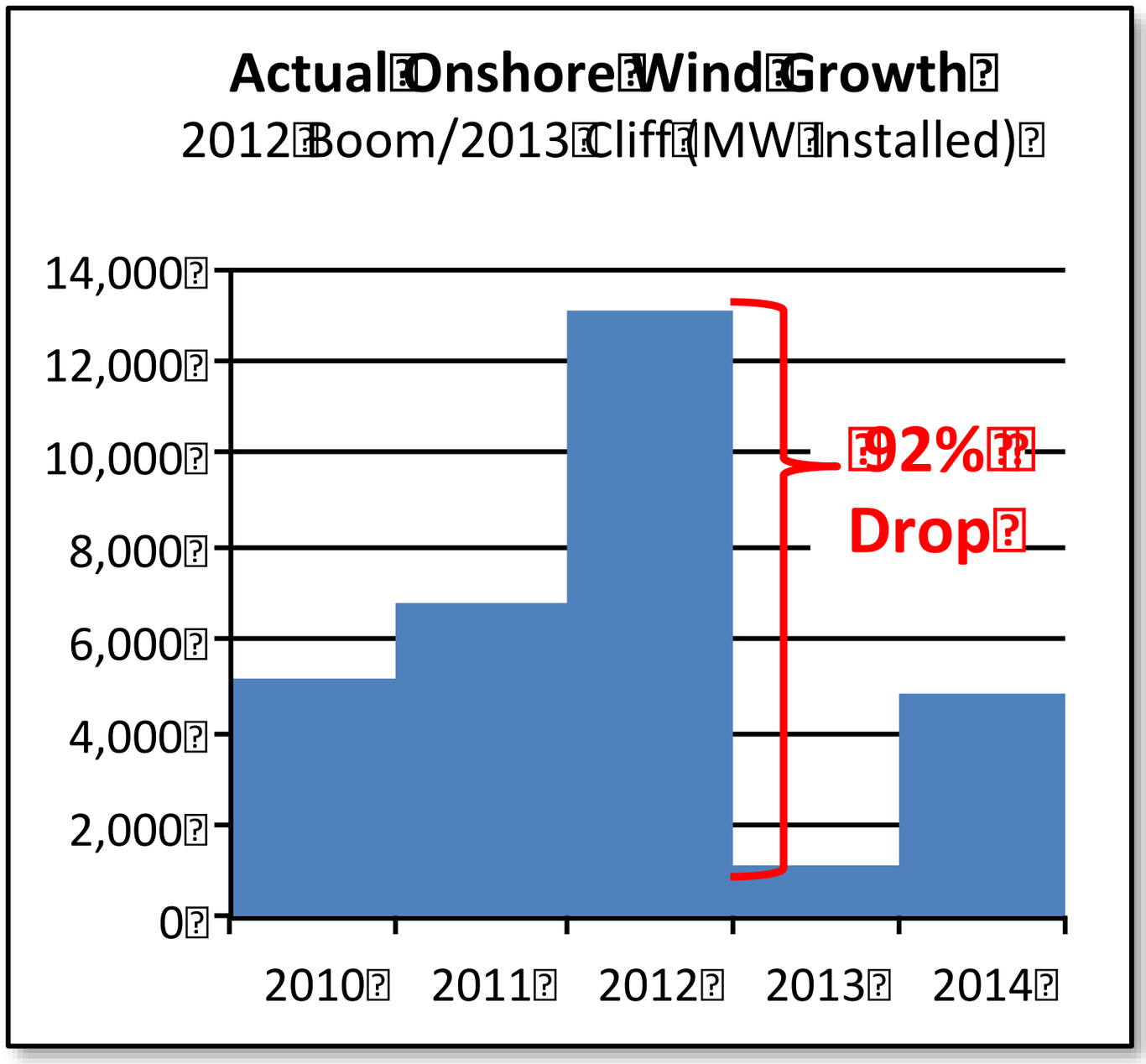
New Natural Gas, Wind: 2–3x More Expensive Than Existing Coal Power

- Replacing existing coal fleet with new natural gas and wind farms will burden Americans with higher energy costs
- Environmental regulations, subsidies and mandates driving most new generating capacity
- Existing generation would remain less expensive than their replacements for at least the next 10 to 20 years



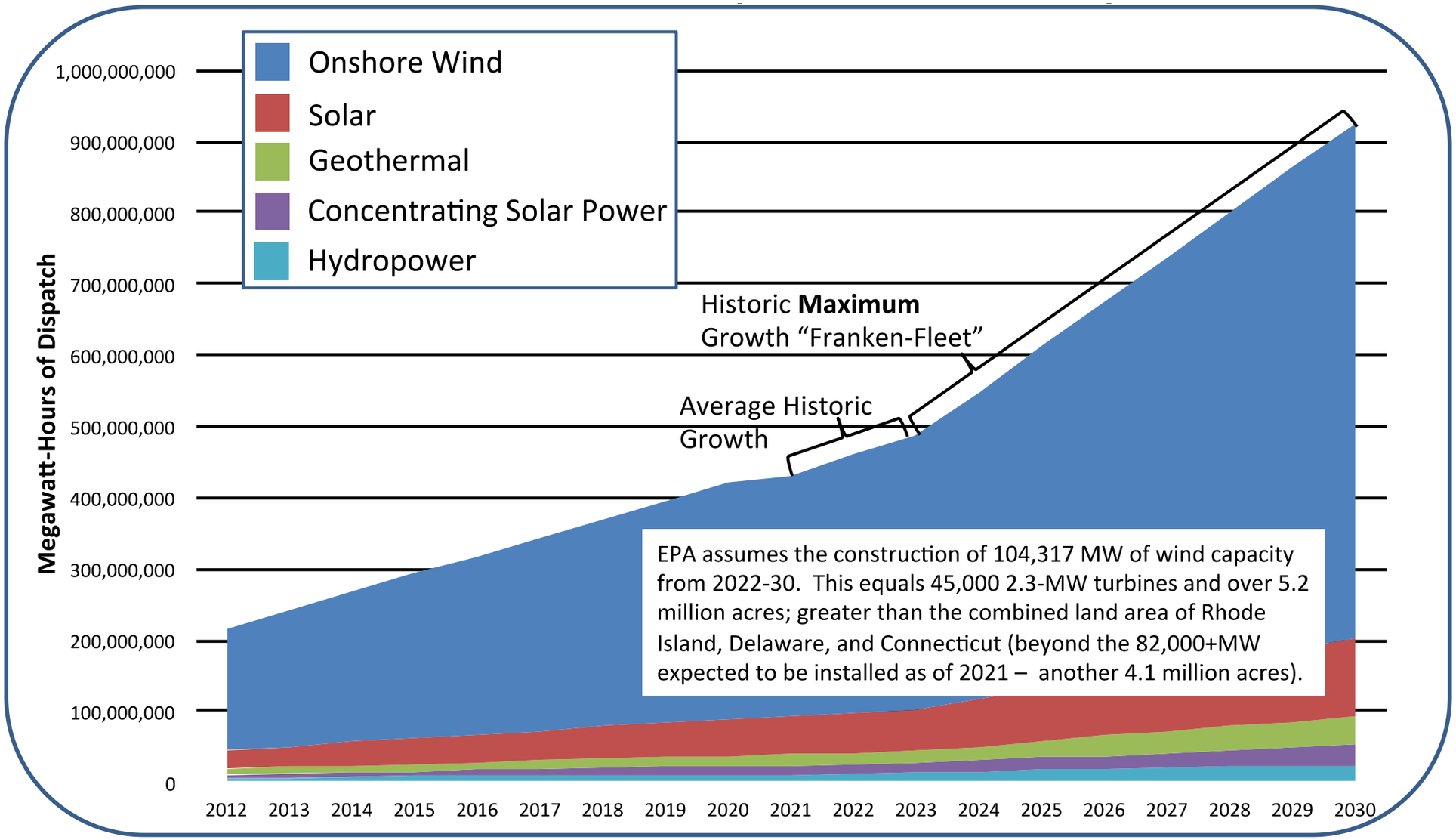
Source: Institute for Energy Research, “The Levelized Cost of Electricity from Existing Generating Resources,” June 2015.

EPA Cherry Picks Renewable Data



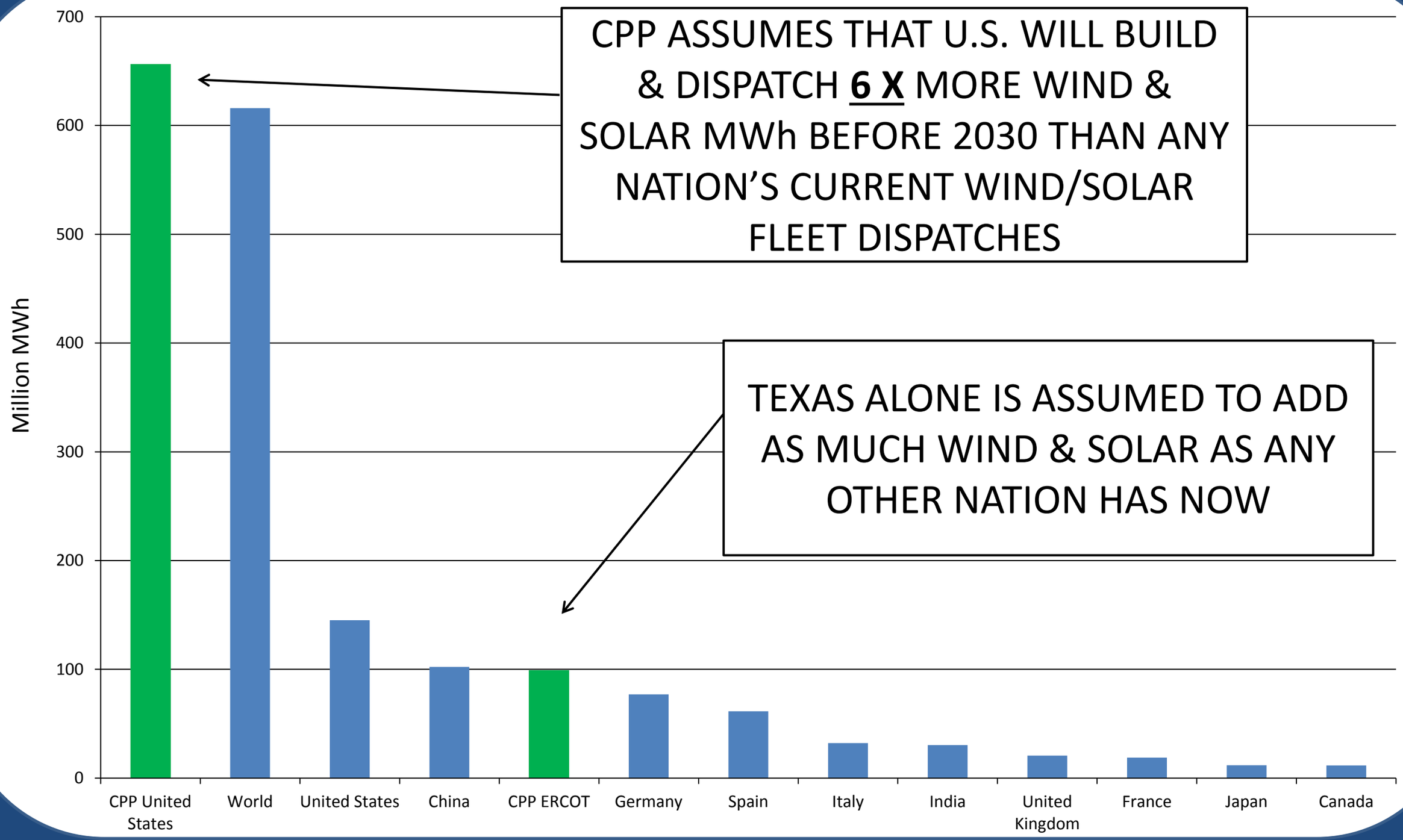
Source: 2012 Projected Installed Wind Capacity from U.S. EIA; Annual Energy Outlook 2015, Table 58

EPA-Assumed Increase in Renewable Generation (2012-2030)



Sources: EPA, Greenhouse Gas Mitigation Measures TSD (Final Rule); EPA, GHG Abatement Measures TSD (Rule Proposal). 2012 baseline capacity excludes existing hydroelectric power facilities and is apportioned, by technology, at EPA's modeled historic distribution; average acre/MW (5 MW/KM$^{2)}$ from NREL, U.S. Renewable Energy Technical Potentials: A GIS-Based Analysis, July 2012; state areas from U.S. Census, Geography, State Area Measurements; 2012 Projected Installed Wind Capacity from U.S. EIA, Annual Energy Outlook 2015, Table 58.

Putting EPA's Assumed Wind & Solar Build in Perspective (2013-2030 U.S. Build vs. Current World)

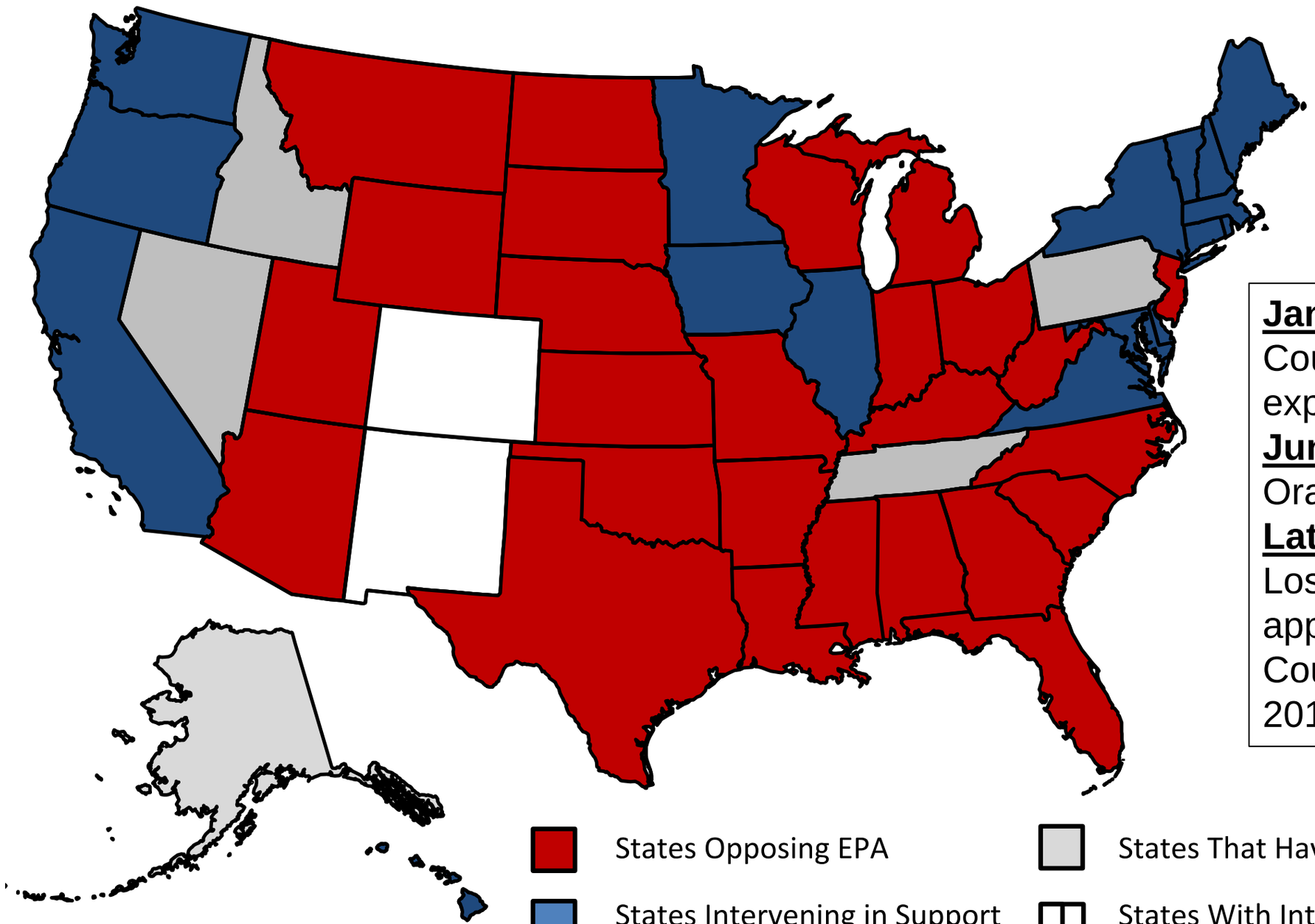


Applies EPA's incremental growth targets under the final CPP and assumes EPA's modeled historic distribution of generation from 2013 through 2021. Sources: EPA Greenhouse Gas Mitigation Measures TSD; EIA, International Energy Statistics, Renewables, 2012.

State Strategy for Responding to President Obama's Carbon Rule

Building on the Successful "Just Say No" Approach in 2015, States Should "Do No Harm" in 2016

Carbon Rule Litigation
State Actions



January 2016:
Court denies stay but offers expedited review.
June 2016:
Oral arguments scheduled.
Late 2016:
Loser will almost certainly appeal to the Supreme Court. Decision likely in 2017.

States Opposing EPA

States Intervening in Support of EPA

States That Have Not Taken Action

States With Internal Disagreement (e.g. Governor, Legislature, Attorney General)

The “Do No Harm” Approach

- Meet requirements for extension
- Avoid binding commitments
- Stop premature implementation

Getting an Extension

- Identify compliance approaches *under consideration*

- Explain why more time needed to develop a State Plan

- Show how the State plans to engage the public, including “vulnerable communities”

EPA, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule, 80 Fed. Reg. 64,661 at 64,669, Oct. 23, 2015.

Getting An Extension:
A Process, Not A Plan

Danger of Premature Implementation

"But even if we don't [win in court], it was three years ago. Most of [the utilities] are already in compliance, investments have been made, and we'll catch up."

How Should Kansas Respond?

Adopt “Do No Harm” Approach

Strengthen HB 2233

- Require Governor to submit extension making no binding commitments
- Require legislative approval of any ultimate State Plan
- No plan until legal resolution
- No cap-and-trade

One more thing…

EPA Carbon Rule: A Comparison

What's the difference between a State Plan and a Federal Plan?	State Plan	Federal Plan
Shuts down reliable power sources	✓	✓
Raises electricity prices, while utilities profit	✓	✓
Pushes states into mass-based cap-and-trade	✓	✓
Federal government controls electric grid and dictates state energy policy	✓	✓
Compliance begins in 2022	✓	✓
Verification begins in 2025	✓	✓
States can participate in Clean Energy Incentive Program	✓	✓
Plan is federally enforceable	✓*	✓
States subject to federal penalties	✓**	✓
Locked in to Plan if Courts Strike Down Rule	✓	✗

Questions?