Rebooting Federal Energy Policy as the Grid Meets the Machine

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August 11, 2026
Ohio Electric Cooperatives

Jackson Walker LLP

PRESENTATION ROADMAP

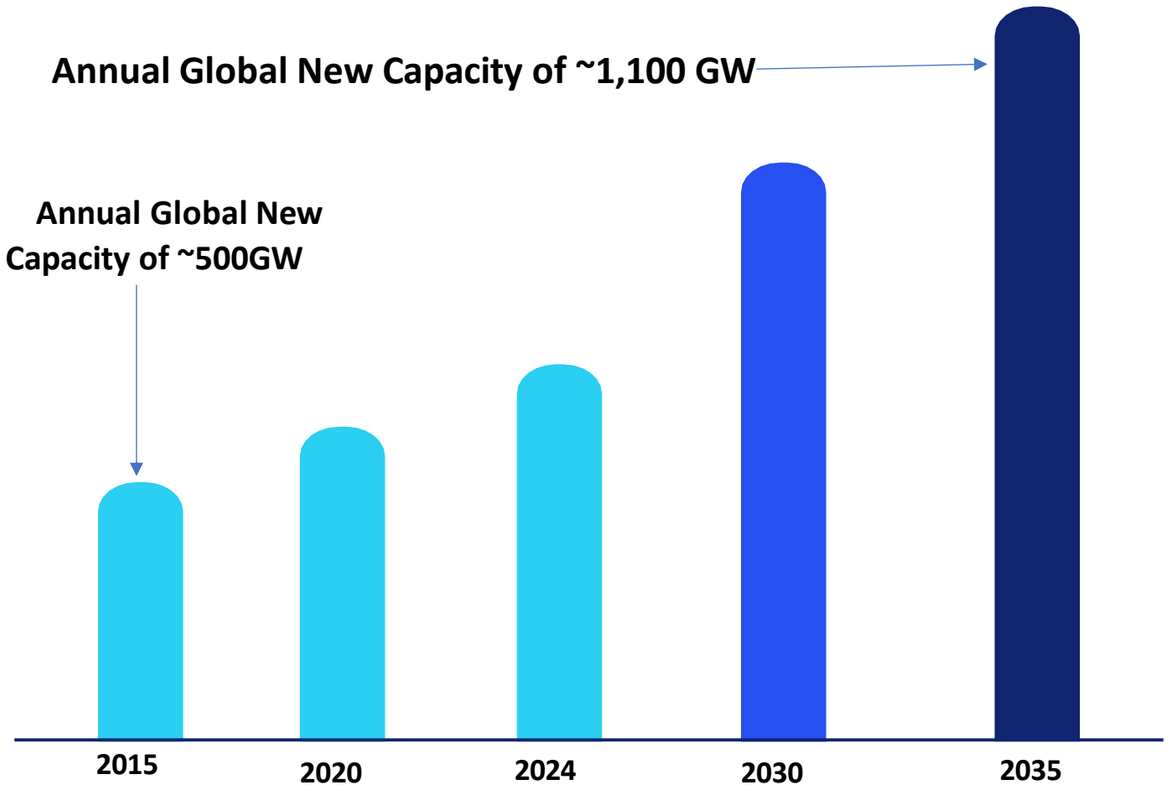
1. Global Demand for Digital & Energy Infrastructure
2. Geopolitical Energy Security Context
3. U.S. Domestic Demand Outlook & State of the Grid
4. U.S. Energy & Environmental Policy Response
5. Thoughts on Consent Decrees & the Commerce Clause

1. Global Race to Meet the Electricity Demands of the Digital Age

GLOBAL POWER DEMAND GROWTH

Annual global power capacity expansion doubling to meet new electric / digital age

Transition to a more electrified future, on top of the usual fundamentals, exponentially driving long-term growth



214 GW
AI Data Center Demand

182 GW
EV Car Demand

570 GW
Electrification of Industry

456 GW
Digitalization of Economies

660 GW
People without Access to Electricity

1,540 GW
Increasing Urbanization and Industry

250 GW
Air conditioning/ Heat Pumps/ Desalination

844 GW
Retiring Gas Power

234 GW
Coal & Oil Retirement

Source: BNEF – New Energy Outlook 2025. 1) Energy Outlook 2050, 2024 Edition. 2) AI power: Expanding data center capacity to meet growing demand, McKinsey 2024. 3) Global EV Outlook 2025, International Energy Agency (IEA). 4) IEA (2023), GlobalData. 5) Between 10 and 20% of electricity consumption from the ICT sector in 2030. 6) Tracking SDG7: The Energy Progress Report 2024. 7) Global Power Plant Tracker, 2025. 8) World Bank Group Data.

AI + Inference + Cloud Datacenters : The Where & Why

Three different categories, in terms of what they do, where they need to be, how much land & power they need (now & in the future)

AI — Large-scale model training

AKA: hyperscale, training clusters

Finding needles in haystacks & only the needles need to travel the web

Can be Hundreds of miles distant from cities

huge rural campuses w/cheap power

2 GW+/campus

BY 2030

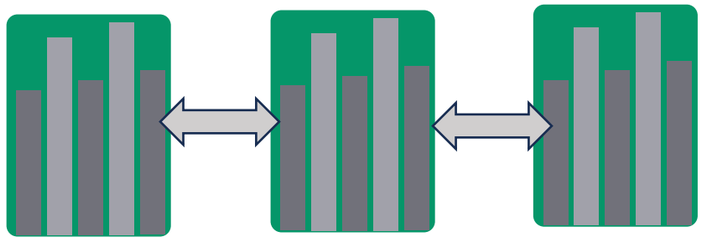
3x

growth in AI datacenter energy use (IEA)

INF — Inference (AI-in-action)

AKA: edge computing, edge sites

Self-driving cars instantly sensing, deciding, & talking to each other



Need to be Located Close to/Inside Cities

must sit close — latency can't wait

155 TWh (2024)

80–90%

of all AI compute power is inference, not training (IEA)

465 TWh (2030)

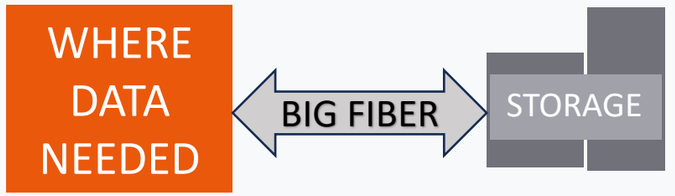
3x

edge site count, 2023→2025, still climbing

CL — Cloud Storage Sites

AKA: colocation, cloud regions

Moving all of our hard drives, to warehouses far away



A few, to hundreds, of miles out

just needs fiber, not proximity

ENERGY USE TODAY

260 TWh (2024)

all datacenters worldwide by 2030 (~3% of global power, IEA)

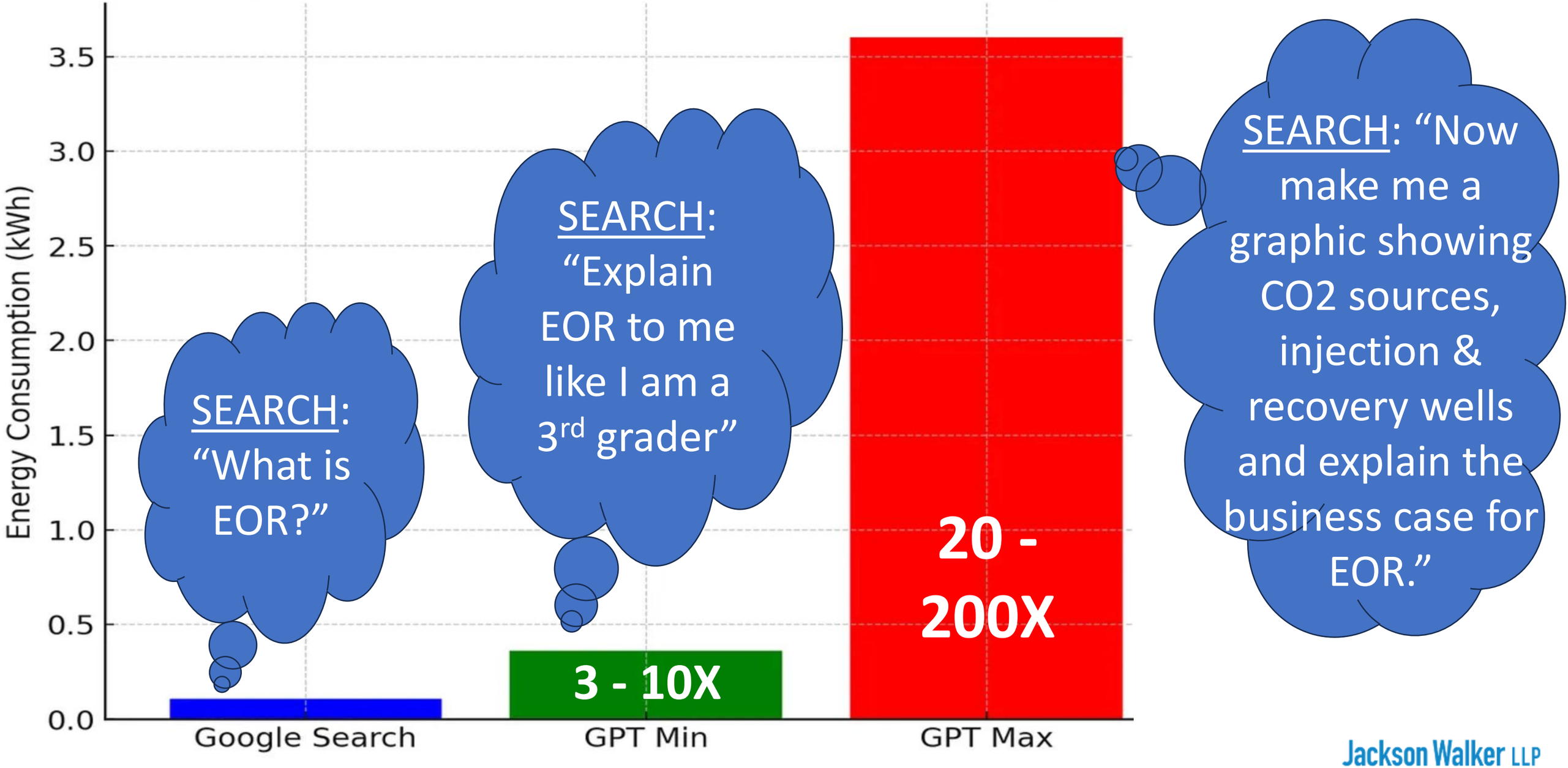
BY 2030

480 TWh (2030)

new global capacity added industry-wide, 2026→2030

Source: IEA "Energy and AI" (2026); company disclosures (xAI Colossus 2); JLL/CBRE data center market outlooks (2026)

Average Power Demand of Digital Searches



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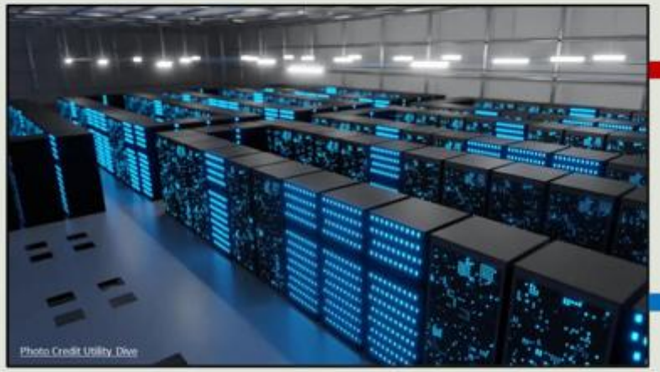
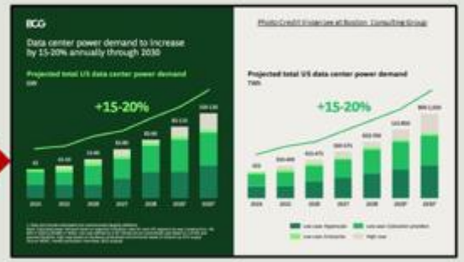
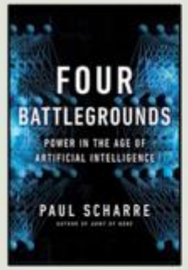
2. Geopolitical Energy Security Context

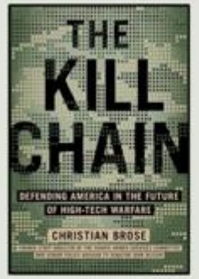
Digital Crossroads: Energy & Geopolitical Security

Data Centers & AI
Power Demand & National Security



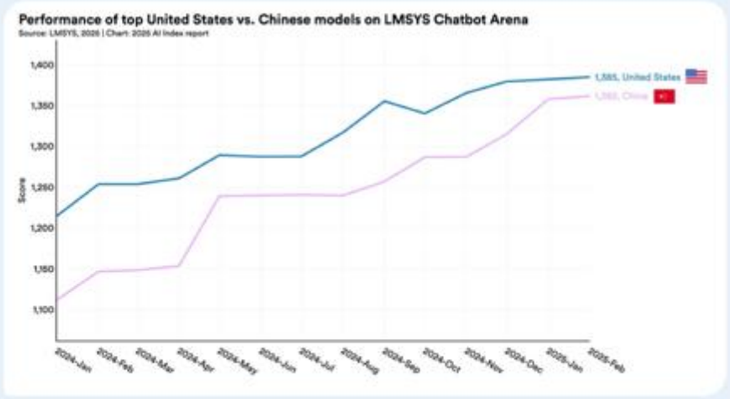






4. The U.S. still leads in producing top AI models—but China is closing the performance gap.

In 2024, U.S.-based institutions produced 40 notable AI models, significantly outpacing China's 15 and Europe's three. While the U.S. maintains its lead in quantity, Chinese models have rapidly closed the quality gap: performance differences on major benchmarks such as MMLU and HumanEval shrank from double digits in 2023 to near parity in 2024. Meanwhile, China continues to lead in AI publications and patents. At the same time, model development is increasingly global, with notable launches from regions such as the Middle East, Latin America, and Southeast Asia.



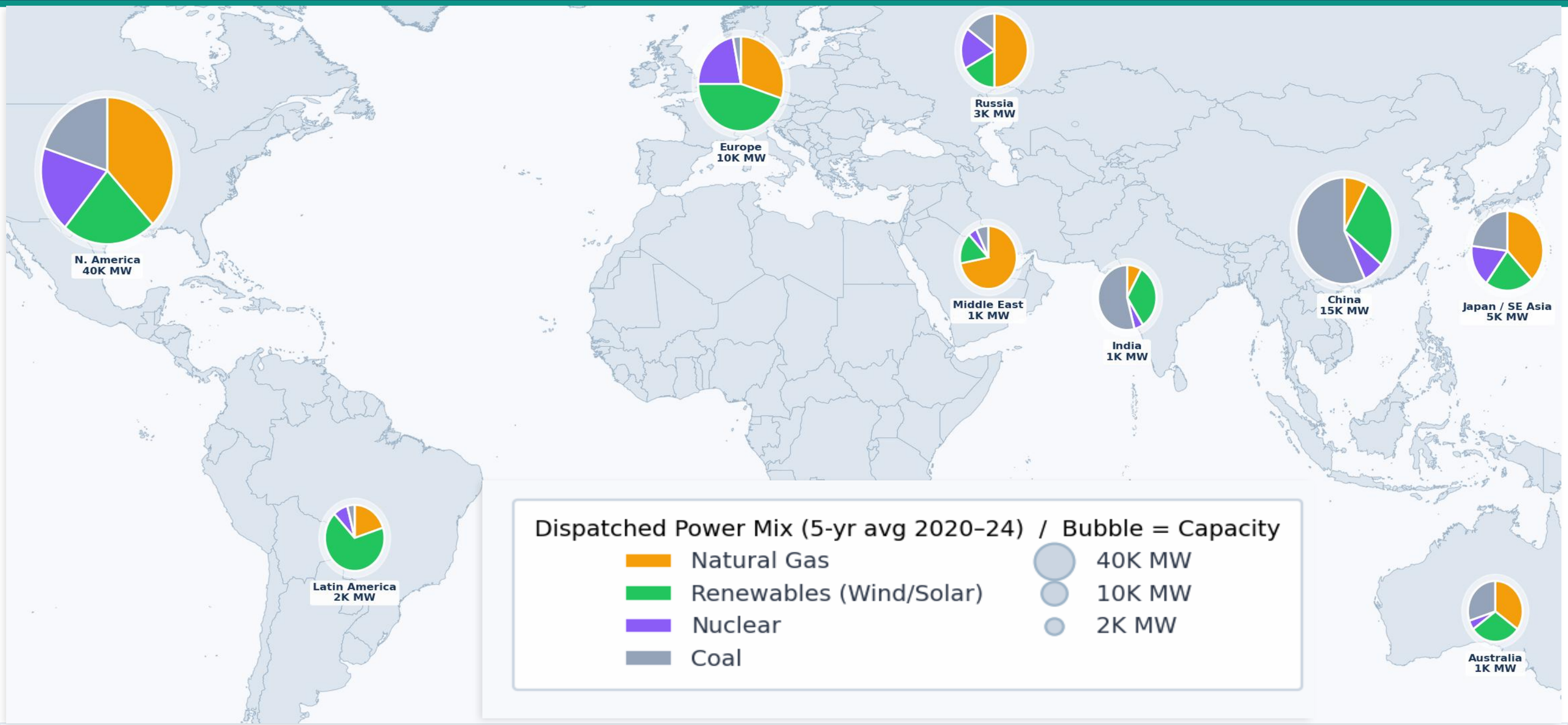
Source: https://hai.stanford.edu/ai-index/2025-ai-index-report

In the national security context, this will primarily mean improving how, and how fast, militaries and intelligence agencies can use data and make decisions. AI will enable better threat detection, giving humans more time to react; let militaries conduct more detailed and realistic planning exercises; shorten crisis response times; and streamline essential back-end processes like finance and logistics.

Source: Foreign Affairs. Link: Here

ALLIES & ADVERSARIES IN THE GLOBAL AI RACE (& what type of power they rely on)

Bubble size ∝ deployed hyperscale capacity (MW) · Pie segments = actual dispatched electricity by source · 20-25 average



SOURCES CBRE Global Data Center Trends 2025 · Synergy Research Group · IEA Electricity 2025 · Cushman & Wakefield · national grid operators · estimates

CHINESE GLOBAL ENERGY/DIGITAL INFRASTRUCTURE INVESTMENT

Bubble size = total capital deployed ($B) · Teal inner = datacenter investment · Amber outer = energy generation · Arrows = capital flows · 2025

CHINESE INVESTMENT AT A GLANCE

$213.5B
Total Engagement 2025

$94B
Energy & Power Generation
(43% of total — matches outer circles)

$70B
AI Datacenter Build-Out
(matches inner teal circles)

24 GW
New Power Capacity
Installed Overseas 2025

+19%
YoY Deal Growth 2024-2025

SOURCES Green Finance & Development Center BRI Report 2025 · Goldman Sachs · Wood Mackenzie · IEA · South China Morning Post

3. U.S. Domestic Demand Outlook & State of the Grid

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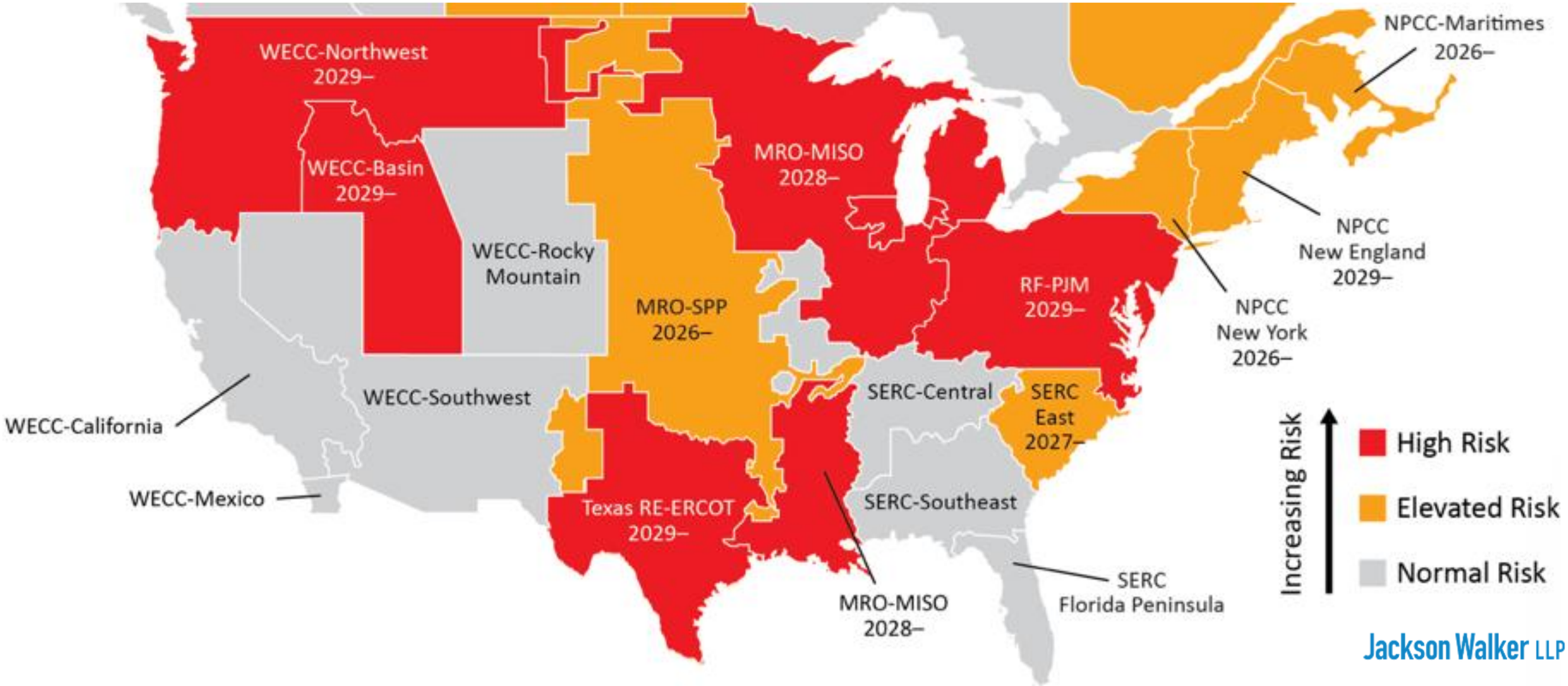
NERC
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

STATE OF THE GRID: *Resource Adequacy is a National Challenge – Even Before Factoring in the Growing Needs of the Digital Age*

Long-Term Reliability Assessment

January 2026



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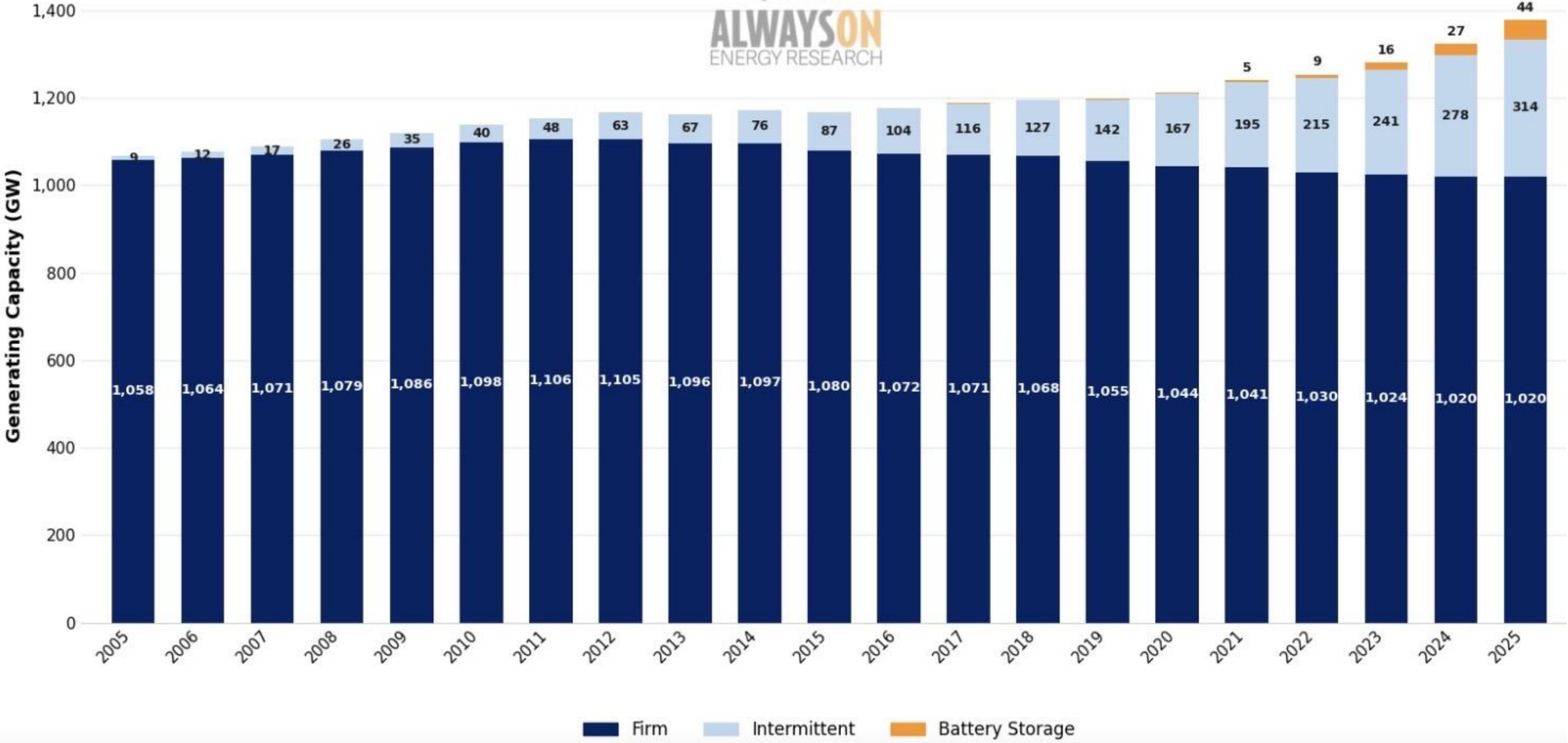
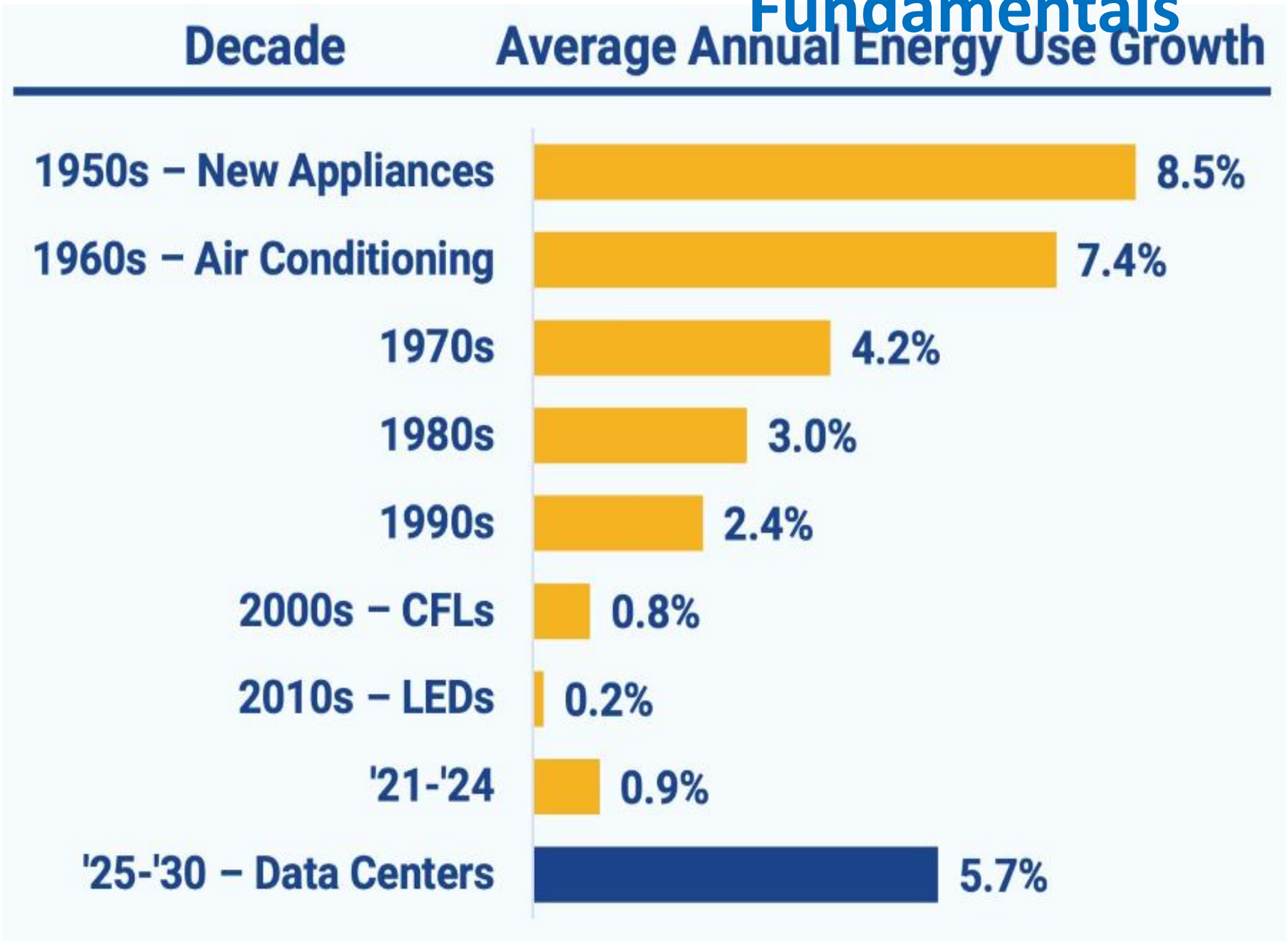
U.S Electric Generating Capacity (GW) Since 2005: Firm vs. Intermittent vs. Battery Storage



Source: U.S. Energy Information Administration (EIA), Form EIA-860 generator-level data

Not a Bubble: This is a Shift in Power Demand Fundamentals

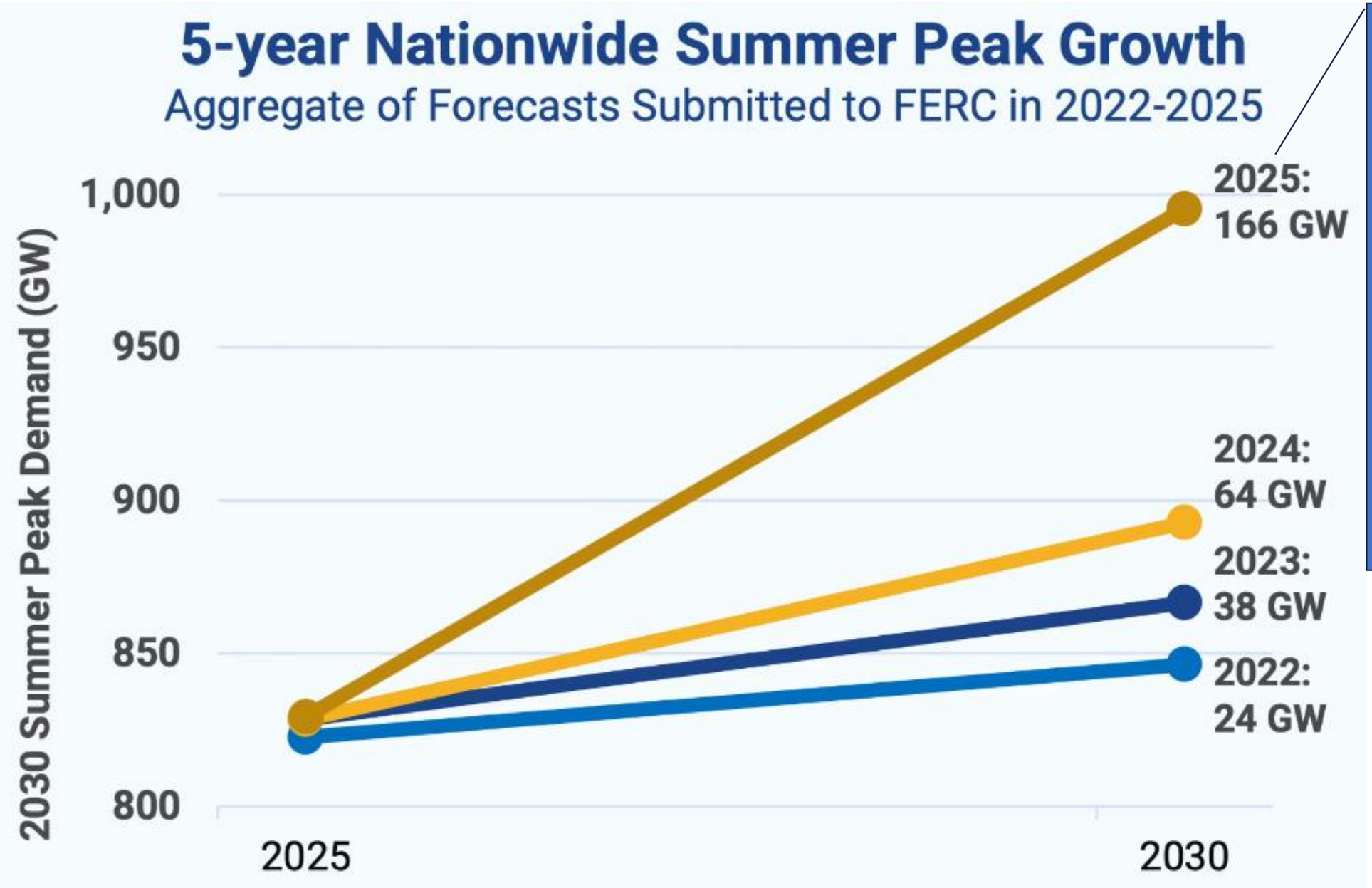


Drivers of Load Growth Through the Decades

Is the trend of AI and datacenter-driven growth growth just getting started?

Source: GridStrategies, Power Demand Forecasts Revised Up for Third Year Running, Led by Data Centers (Nov. 2025)

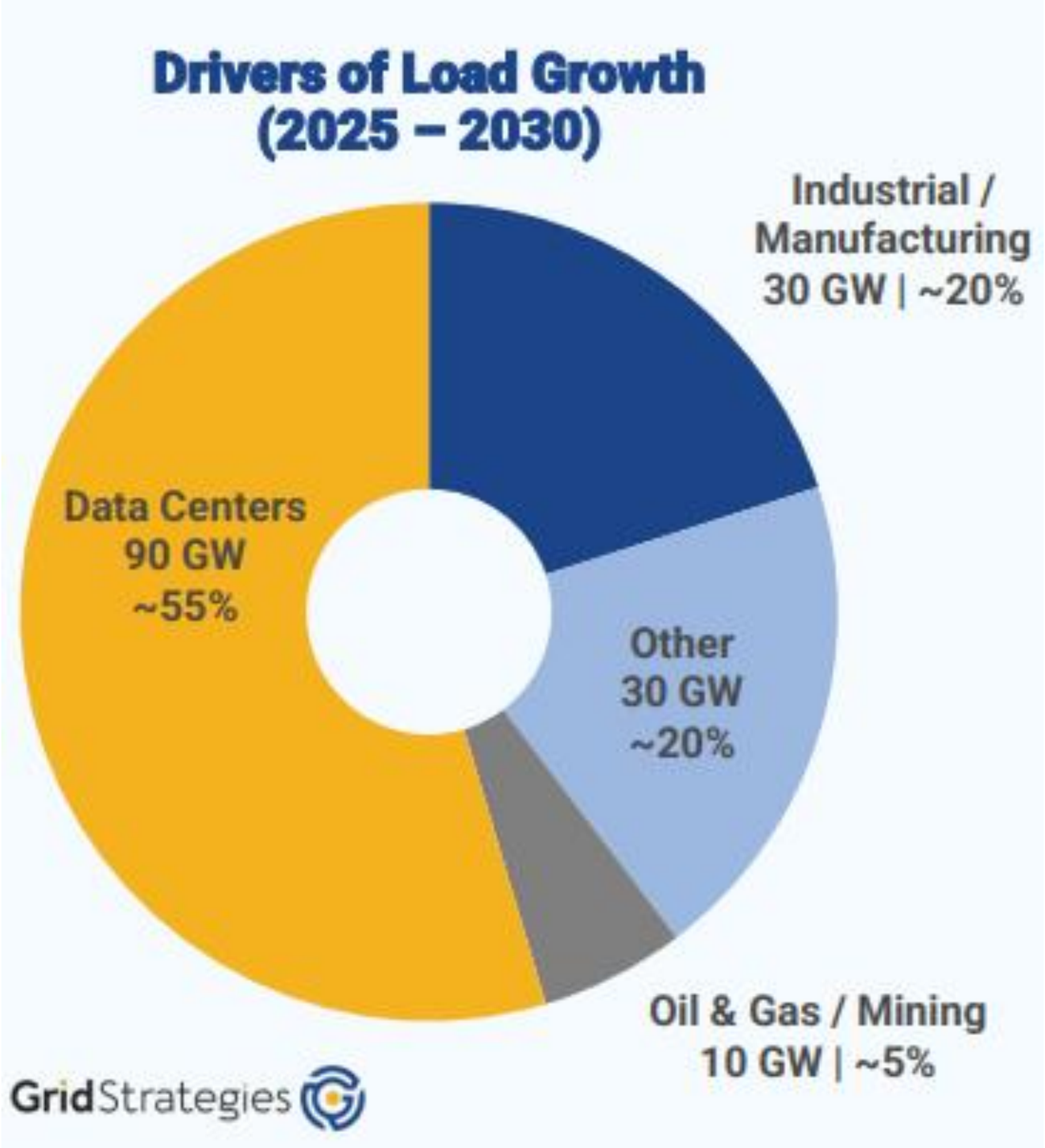
Load Growth Forecasts Keep Growing



166 GW is the equivalent of adding 15 New York Cities to the grid in 5 years

Source: [GridStrategies, Power Demand Forecasts Revised Up for Third Year Running, Led by Data Centers (Nov. 2025)]

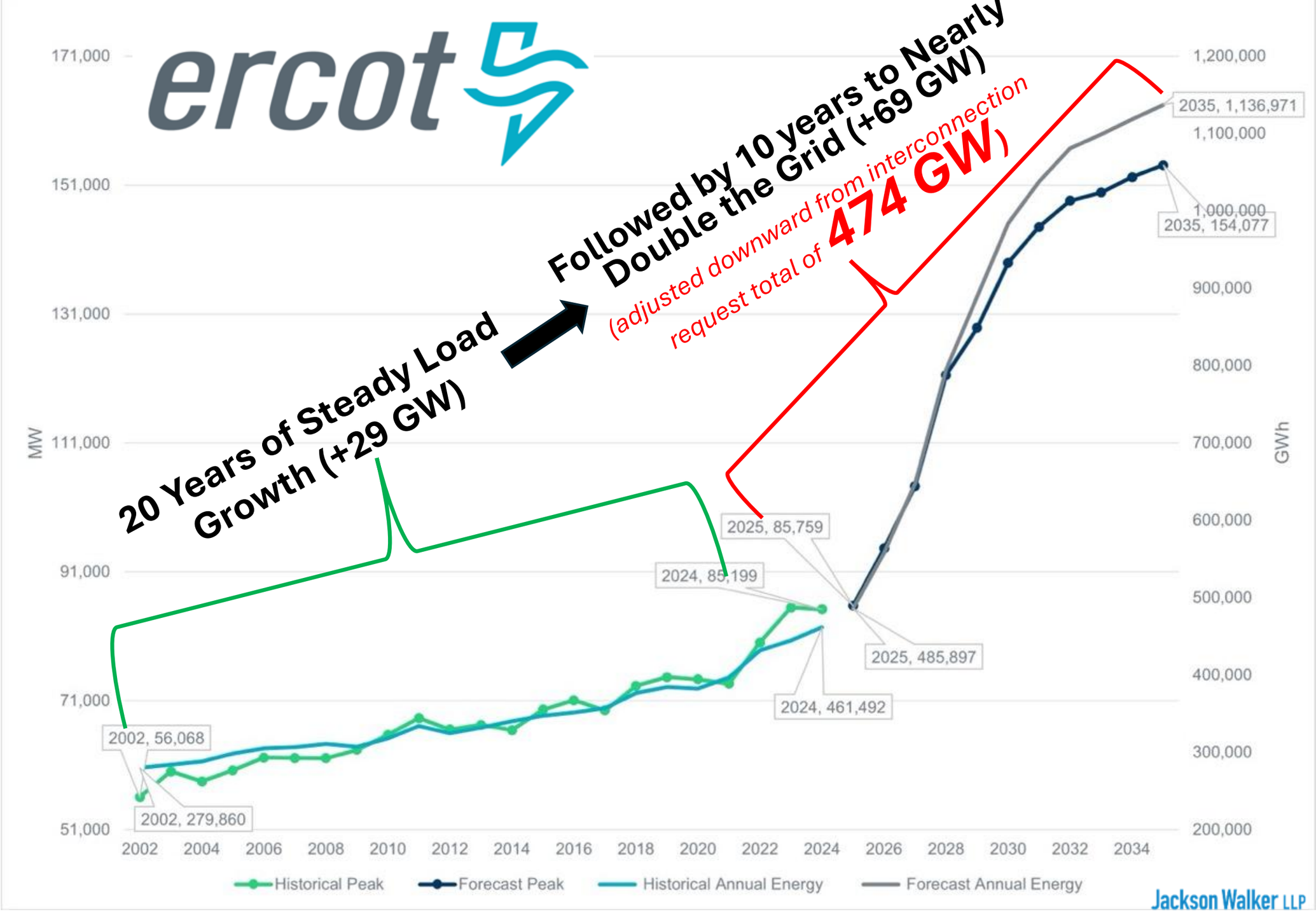
But this Unprecedented Growth is not All About AI and Datacenters



CASE STUDY:

TEXAS Load Growth Projections

Compare: Ohio's Total Estimated Coincidental Peak is Approximately 20-23 GW



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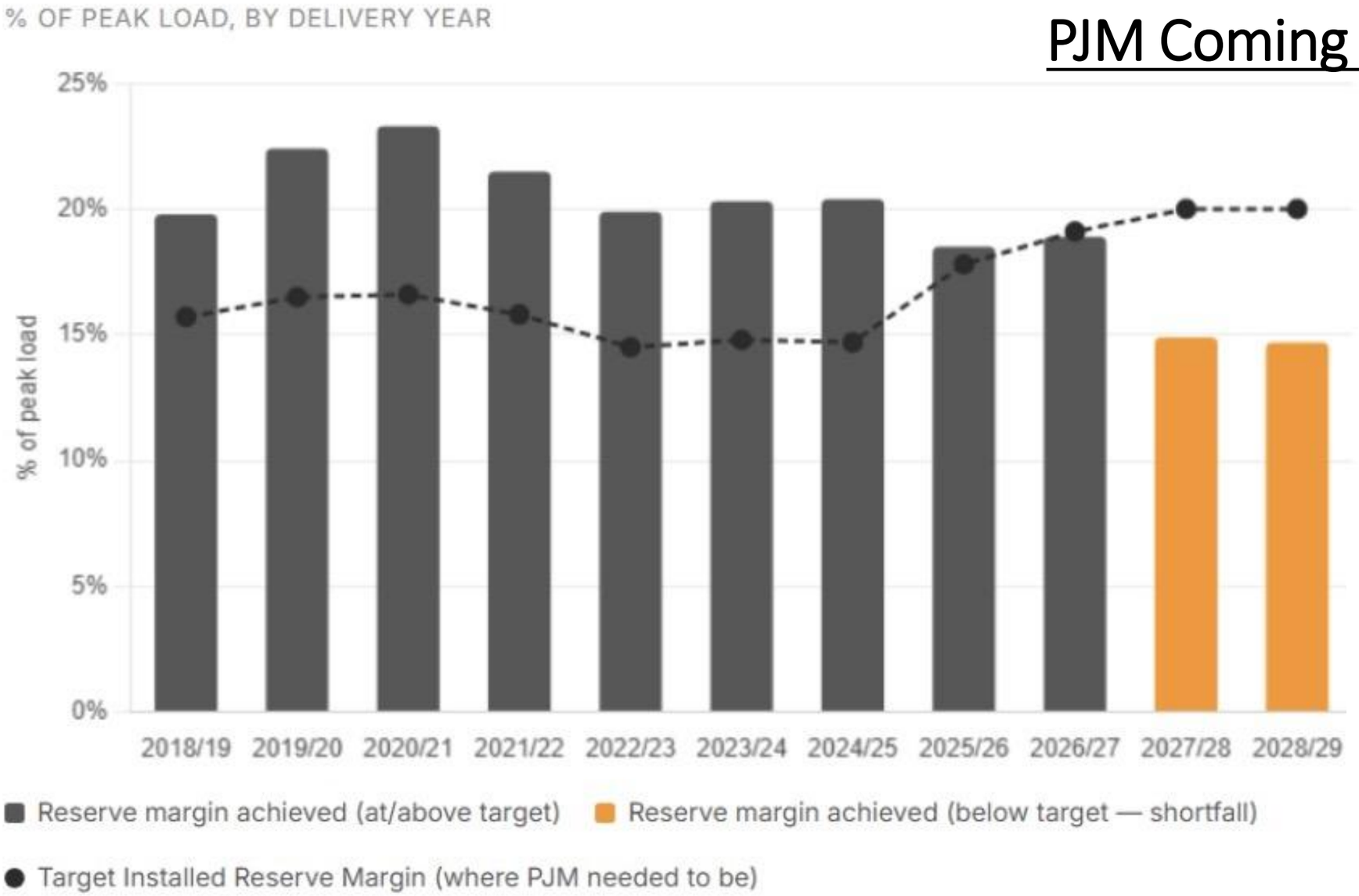
PJM Coming up Short on Capacity:

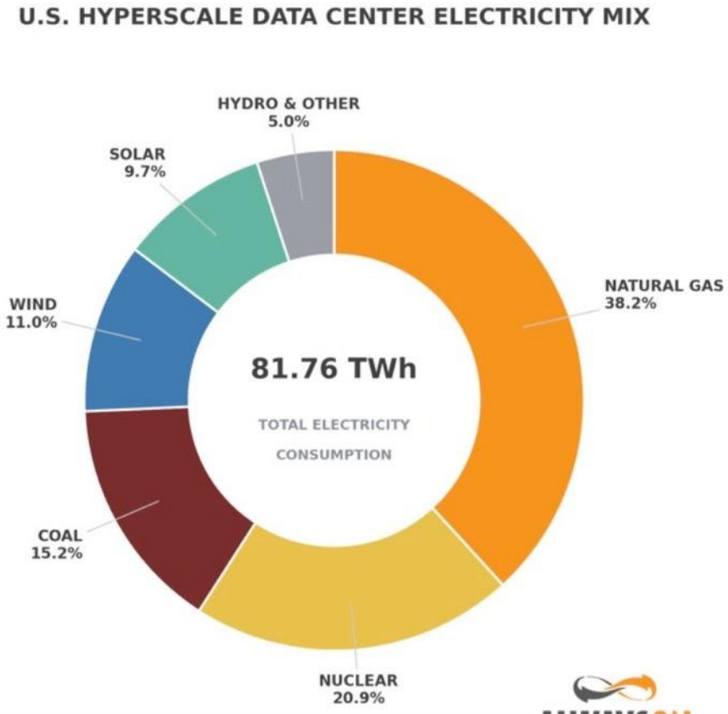


−6,500 MW
2027/28: cleared 5.1 pts below the 20.0% target

−6,831 MW
2028/29: cleared 5.3 pts below the 20.0% target

For 2 Straight Years, PJM's Capacity Auction Has Failed to Secure Sufficient Capacity to Meet Reserve Margin

Yet, Datacenter Companies Continue to Advocate for a Renewable- Heavy Grid & Buy Credits – All the While, Their Operations Depend on Thermal Power



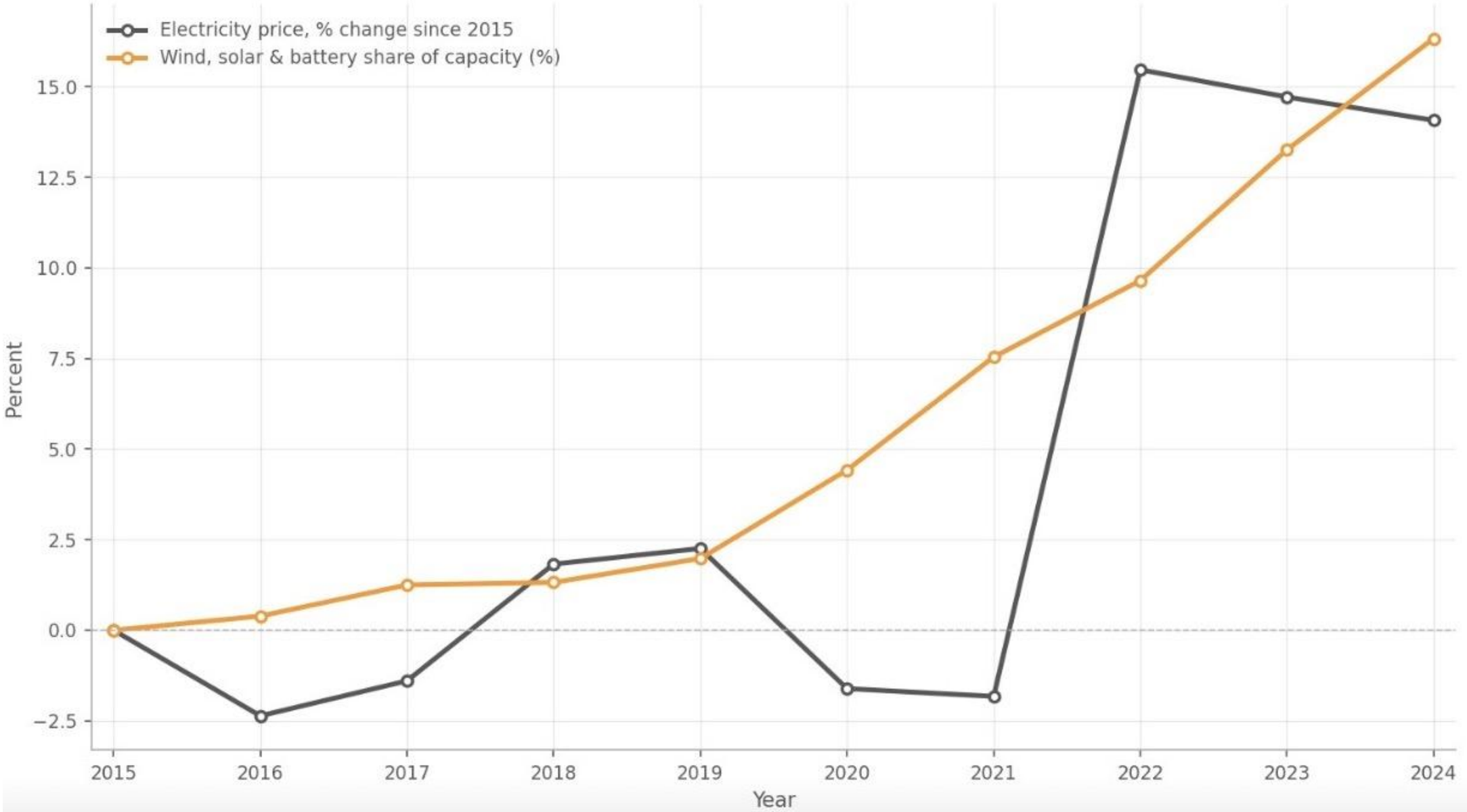
Source: Assessing the Carbon Emissions and Energy Consumption of U.S. Hyperscale Data Centers, arXiv:2606.05420

ALWAYSON ENERGY RESEARCH

Virginia electricity prices vs. WSB capacity growth

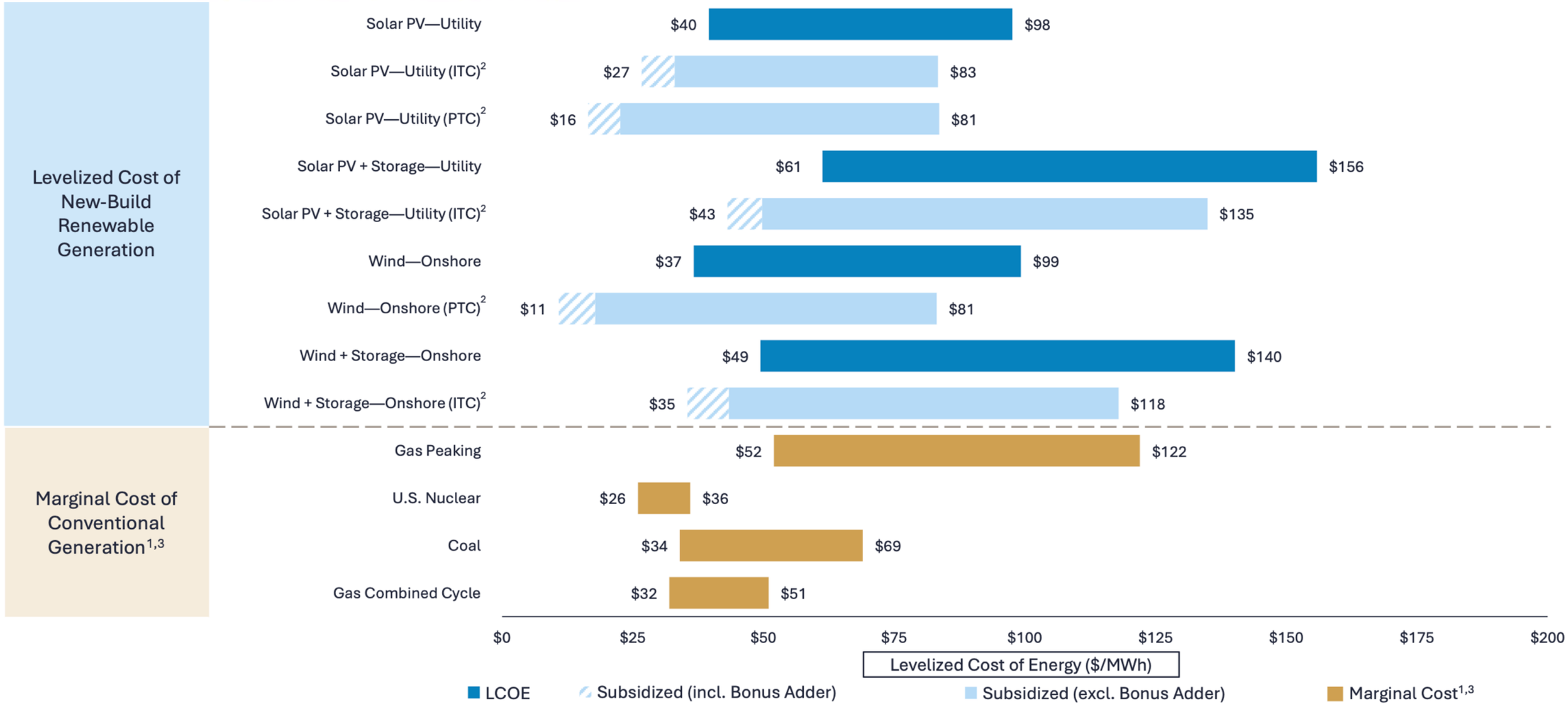
Wind, solar & battery share of capacity, and electricity price change, 2015–2024

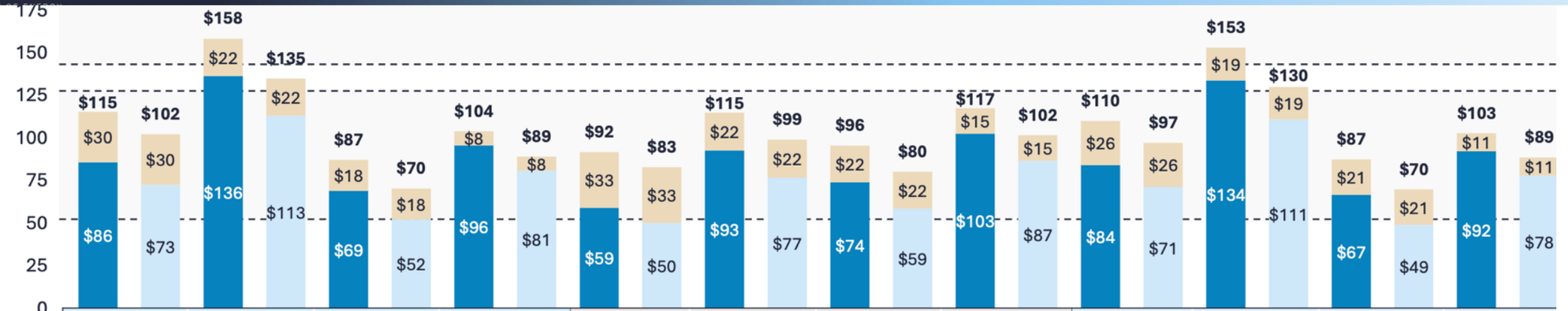
ALWAYSON ENERGY RESEARCH



Source: EIA State Electricity Profiles data for Virginia (Tables 4A and 8). Price shown as % change from 2015 level (9.31 cents/kWh).

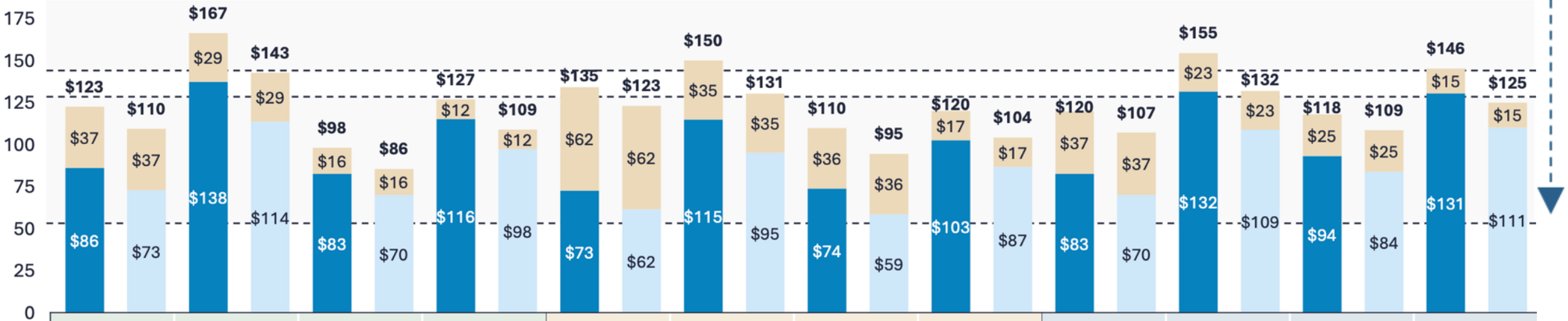
Levelized Cost of Energy Comparison—New-Build Renewable Generation vs. Marginal Cost of Conventional Generation





	Solar	PV + Storage[1]	Wind	Wind + Storage[1]	Solar	PV + Storage[1]	Wind	Wind + Storage[1]	Solar	PV + Storage[1]	Wind	Wind + Storage[1]
ELCC	39%	55%[3]	26%	66%[3]	14%	41%[3]	27%	50%[3]	51%	53%[3]	20%	47%[3]
Capacity Factor	18%	18%	36%	36%	27%	27%	34%	34%	19%	19%	37%	37%
Resource Penetration[4]	23%	23%	26%	26%	50%	50%	19%	19%	4%	4%	66%	66%
	MISO				CAISO				SPP			

Gas Peaking LCOE v19.0 ($144 – $276/MWh)

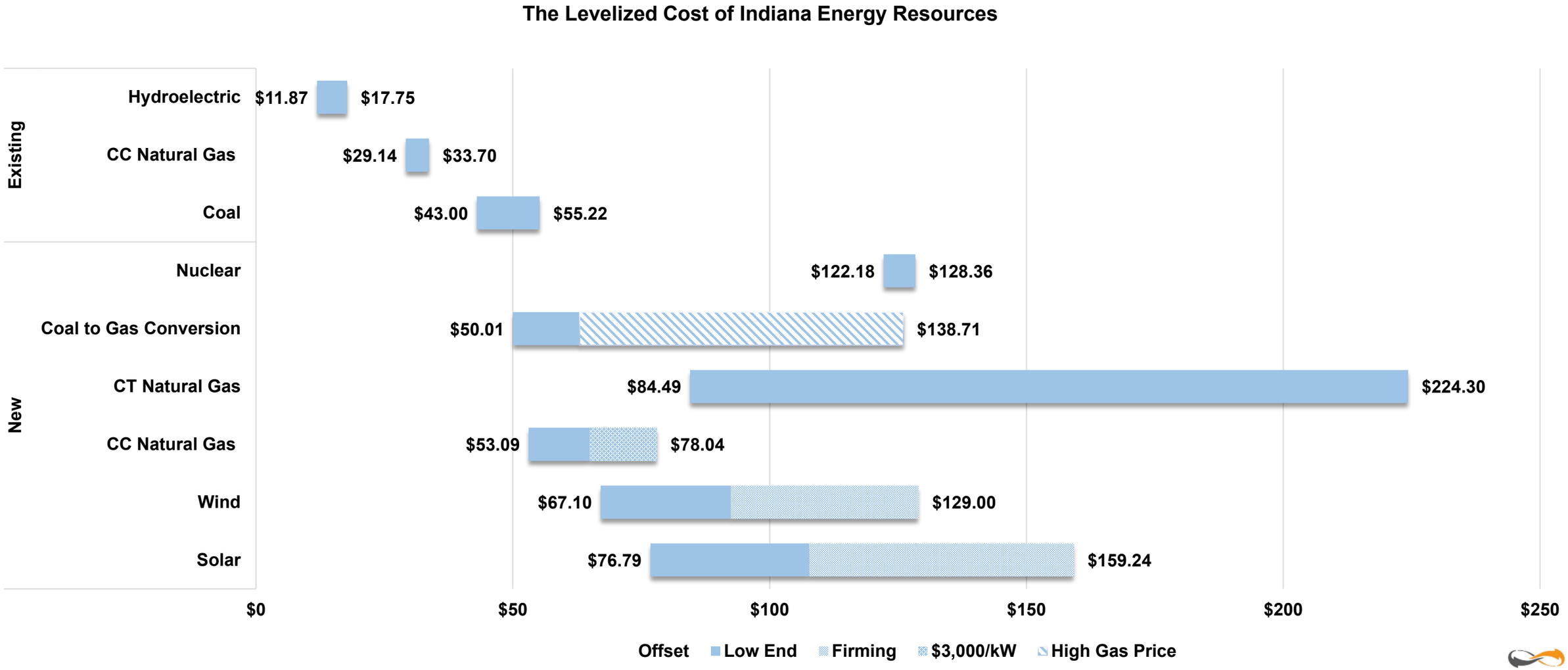


	Solar	PV + Storage[1]	Wind	Wind + Storage[1]	Solar	PV + Storage[1]	Wind	Wind + Storage[1]	Solar	PV + Storage[1]	Wind	Wind + Storage[1]
ELCC	12%	30%[3]	38%	53%[3]	17%	53%[3]	24%	63%[3]	12%	45%[3]	17%	51%[3]
Capacity Factor	18%	18%	30%	30%	22%	22%	34%	34%	19%	19%	27%	27%
Resource Penetration[4]	7%	7%	1%	1%	47%	47%	49%	49%	2%	2%	8%	8%
	PJM				ERCOT				NYISO			

Gas Combined Cycle LCOE v19.0 ($51 – $129/MWh)

■ Unsubsidized Regional LCOE [2] ■ Subsidized Regional LCOE (excl. Bonus Adder) [2,5] ■ Levelized Firming Cost

The Correct Way to Look at "Levelized Cost of Energy (LCOE)" When Deciding Whether to Retire/Convert Plants

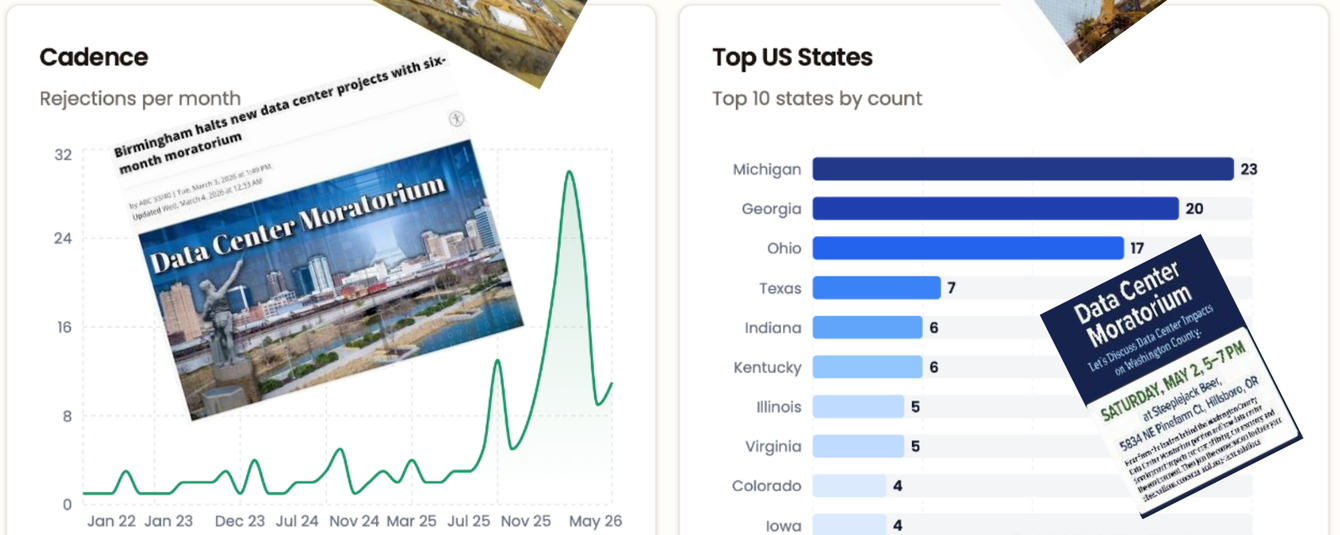


Source: FERC Form 1 data accessed through S&P Global, U.S. Energy Information Administration

ALWAYSON ENERGY RESEARCH

The Pushback on Datacenters is Real, but it is also . . .

FUNDED BY OUR ENEMIES



SOURCE: Robert Bryce

WHO IS FIGHTING THE AI BUILDOUT?

Foreign influence, activist networks, and local opposition collide.

FOREIGN INFLUENCE COMMAND CENTER

- NARRATIVE WARFARE
- STRATEGIC OBSTRUCTION
- INFORMATION LEVERAGE

INFLUENCE OPERATIONS DASHBOARD

TREND MANIPULATION | ASTROTURF NETWORKS | TARGETED MESSAGING | SENTIMENT AMPLIFICATION

CONTENT THEME DISTRIBUTION

ENVIRONMENTAL CONCERNS	46%
COMMUNITY IMPACT	28%
HEALTH & SAFETY	16%
COST & TAXPAYER IMPACT	10%

PLATFORM PENETRATION

CORE OBJECTIVES

- Undermine public cupport for AI infrastructure
- Amplify division and mistrust
- Delay strategic technological advantage
- Increase regulatory and permitting friction

THE DATA CENTER BATTLEFIELD

Foreign influence can amplify local opposition.

AI DATA CENTER | POWER INFRASTRUCTURE | OPPOSITION HOTSPOT | INFLUENCE FLOW

PACIFIC NORTHWEST
NORTHERN PLAINS
GREAT LAKES
NORTHEAST CORRIDOR
CALIFORNIA VALLEY
SOUTHEAST
SOUTHWEST DESERT
TEXAS TRIANGLE
FLORIDA COAST

AI INFRASTRUCTURE AT STAKE

HIGH-DENSITY SERVER HALLS | WATER & COOLING SYSTEMS | HIGH-VOLTAGE POWER LOADS | LONG-TERM COMMUNITY IMPACT

LOCAL COMMUNITIES. REAL CONCERNS.

FOREIGN INFLUENCE → Disinformation, manipulation, and strategic messaging originate abroad.

ACTIVIST AMPLIFICATION → Narratives are amplified through networks, bots, and aligned messaging campaigns.

LOCAL RESISTANCE → Communities mobilize around environmental, economic, and quality-of-life concerns.

DELAYED AI INFRASTRUCTURE — Projects face delays, increased costs, regulatory hurdles, and uncertain approval timelines.

AWARENESS ★ RESILIENCE ★ TRANSPARENCY ★ COMMUNITY ★ SECURITY ★ PROGRESS

4. Energy & Environmental Policy Response

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Executive Orders: Energy Policy

Multiple comprehensive executive orders have been issued (and they are still coming) to reshape federal energy policy. These actions declare a national energy emergency, establish new governance structures, protect domestic energy production from state interference, revitalize the coal industry, strengthen grid reliability, and reform regulatory frameworks.

National Energy Dominance Council

Establishing the National Energy Dominance Council (EO 14213, February 14) — Creates cabinet-level coordination body for energy policy.

Emergency Declaration

Declaring a National Energy Emergency (EO 14156, January 20) — Invokes emergency powers to accelerate energy infrastructure development.

Unleashing American Energy

Unleashing American Energy (EO 14154, January 20) — Promotes domestic energy production by reducing regulatory burdens and accelerating infrastructure projects.

Reinvigorating America's Beautiful Clean Coal Industry (EO 14261, April 8, 2025)

Protecting American Energy From State Overreach (EO 14260, April 8 2025)

Strengthening the Reliability and Security of the United States Electric Grid (EO 14262, April 8, 2025)

Zero-Based Regulatory Budgeting To Unleash American Energy (EO 14270, April 9 2025)

Ending Market Distorting Subsidies for Unreliable, Foreign-Controlled Energy Sources (EO 14315, July 7 2025)

Unleashing Alaska's Extraordinary Resource Potential (EO 14153, January 20, 2025)

STRENGTHENING UNITED STATES NATIONAL DEFENSE WITH AMERICA'S BEAUTIFUL CLEAN COAL POWER GENERATION FLEET (February 11, 2026)

Five Concurrent Defense Production Act Directives relating to Development, Manufacturing, and Deployment of Large-Scale Energy and Energy Related Infrastructure (April 20, 2026)

DOE: Strengthening Grid Reliability and Security

1

Emergency Authority Streamlined

Section 202(c) of Federal Power Act activated for grid emergencies

2

Critical Resource Protection

DOE prevents closure of generation >50 MW in at-risk regions

3

Uniform Methodology for Reliability

90-day deadline for reserve margin analysis framework

DOE issued its Reliability Report in July 2025

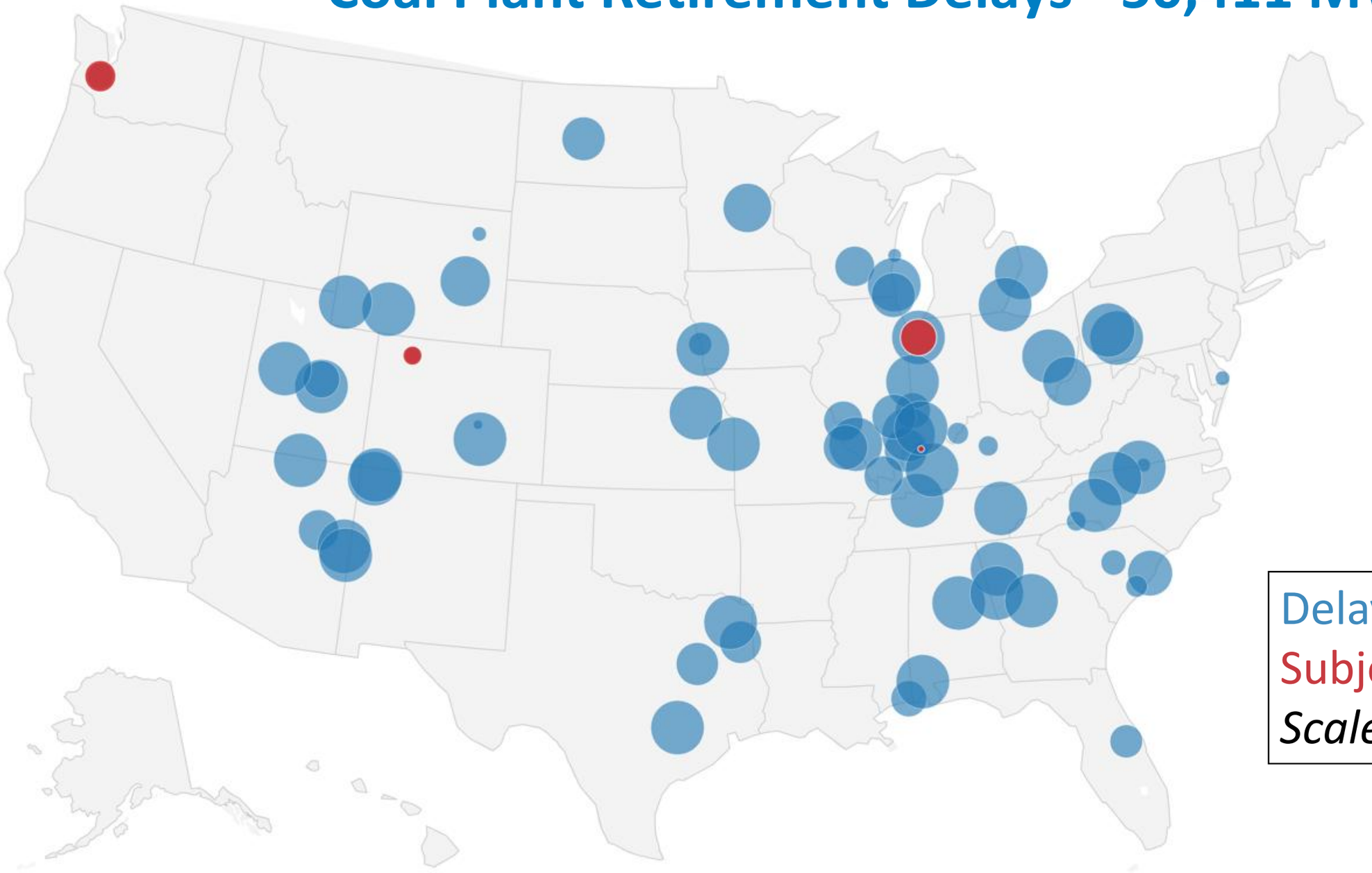
DOE Section 202(c) Emergency Orders – Coal-Fired Power Plants

- **J.H. Campbell Plant (Consumers Energy)**
  West Olive, MI (1,560 MW coal)
  Updated: November 18, 2025 (Order 202-25-9)

- **Craig Station Unit 1 (Tri-State Generation)**
  Craig, CO (446.4 MW coal)
  Initial: December 30, 2025 (Order 202-25-14)
- **Centralia Unit 2 (TransAlta)**
  Centralia, WA (729.9 MW coal)
  Initial: December 16, 2025 (Order 202-25-11)
- **R.M. Schahfer Generating Station (NIPSCO)**
  Wheatfield, IN (Units 17 & 18, ~847 MW coal)
  Initial: December 23, 2025 (Order 202-25-12)
- **F.B. Culley Unit 2 (CenterPoint Energy)**
  Warrick County, IN (103.7 MW coal)
  Initial: December 23, 2025 (Order 202-25-13)

- **Duke Energy Carolinas (Various Units)**
  North Carolina & South Carolina
  Initial: June 24, 2025 (Order 202-25-5) - Short-term heat emergency [Expired: June 25, 2025]

Coal Plant Retirement Delays - 50,411 MWs



Delayed Retirement
Subject to 202 Order
Scaled by MW

National Grid Emergency

Made worse by retirements of dispatchable resources

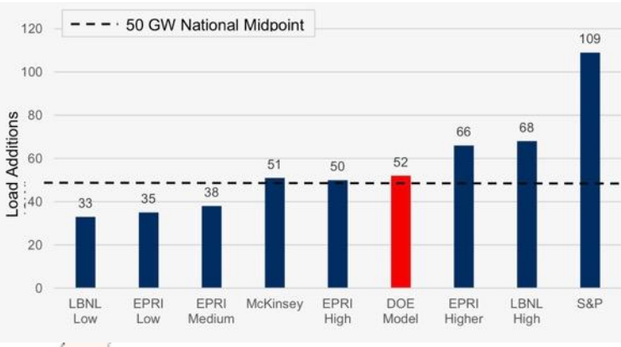


Figure 1. Mean Annual LOLH by Region (2030) – Plant Closures

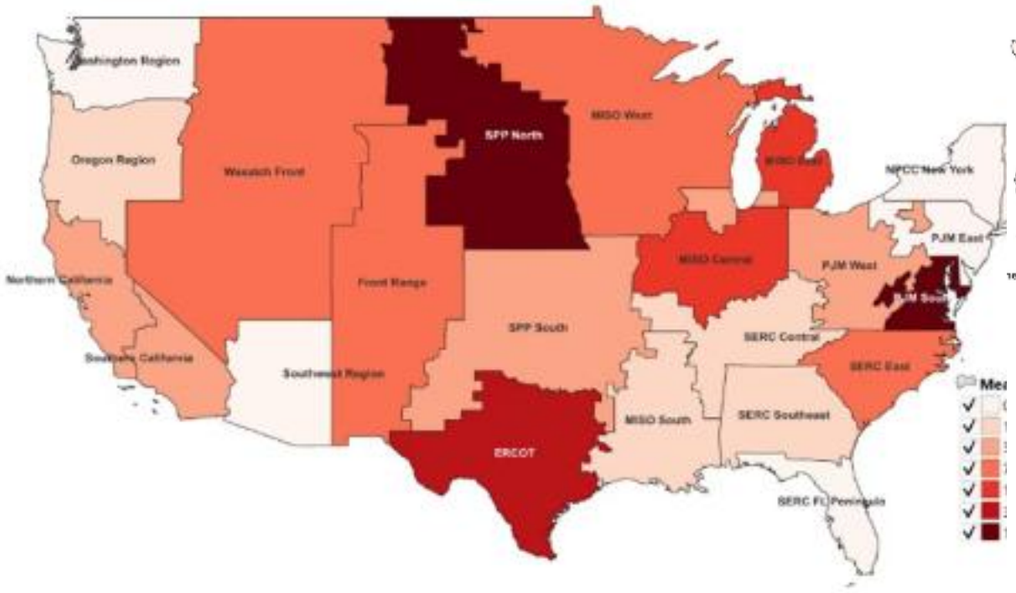


Figure 1. Mean Annual LOLH by Region (2030) – Plant Closures

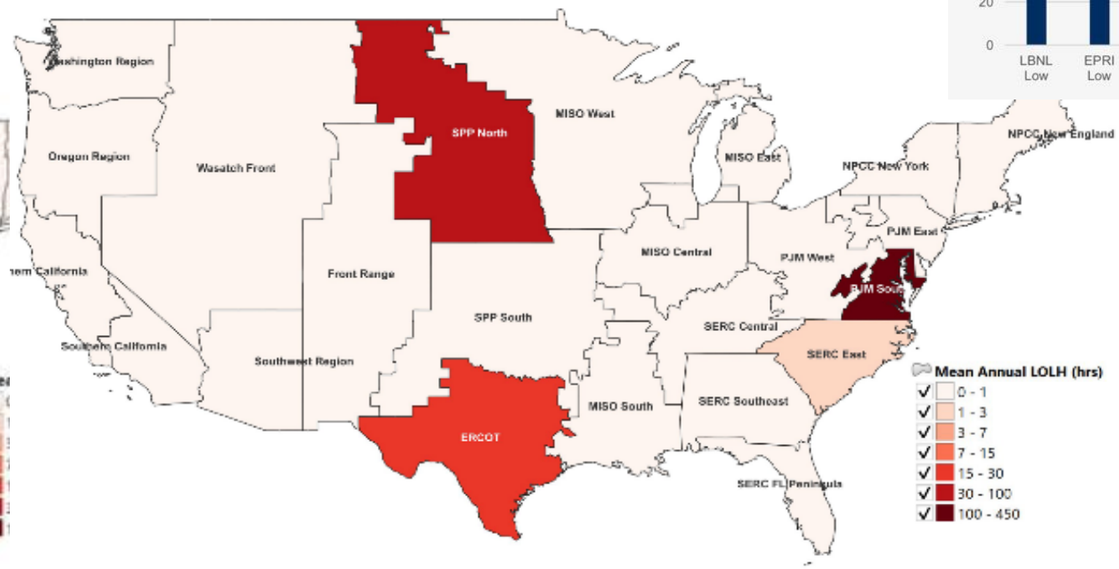


Figure 2. Mean Annual LOLH by Region (2030) – No Plant Closures

DOE Metrics:

2.4

Target LOLH

Loss of Load Hours annual standard

0.002%

Target NUSE

Normalized Unserved Energy threshold

With planned retirements:

National LOLH: 7-430 hours per year

Most areas exceed DOE reliability standards

PJM: 1,052 LOLH in worst year

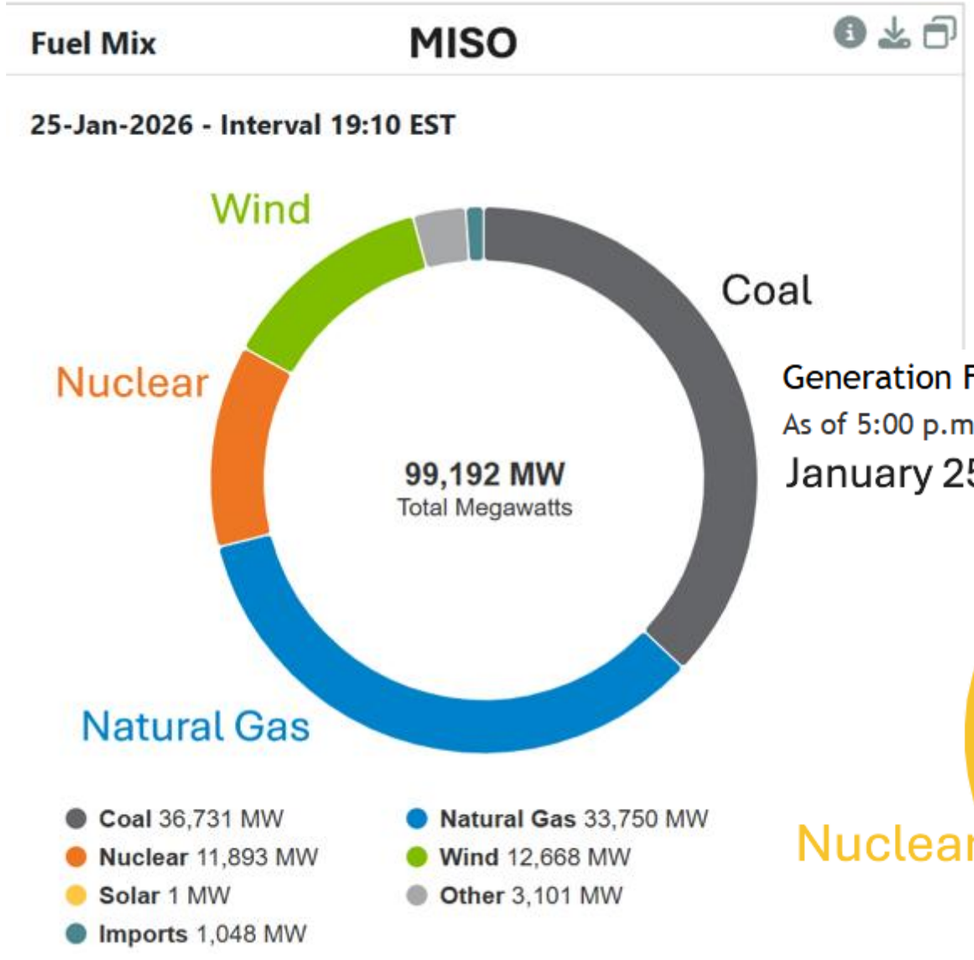
Even if retirements stopped:

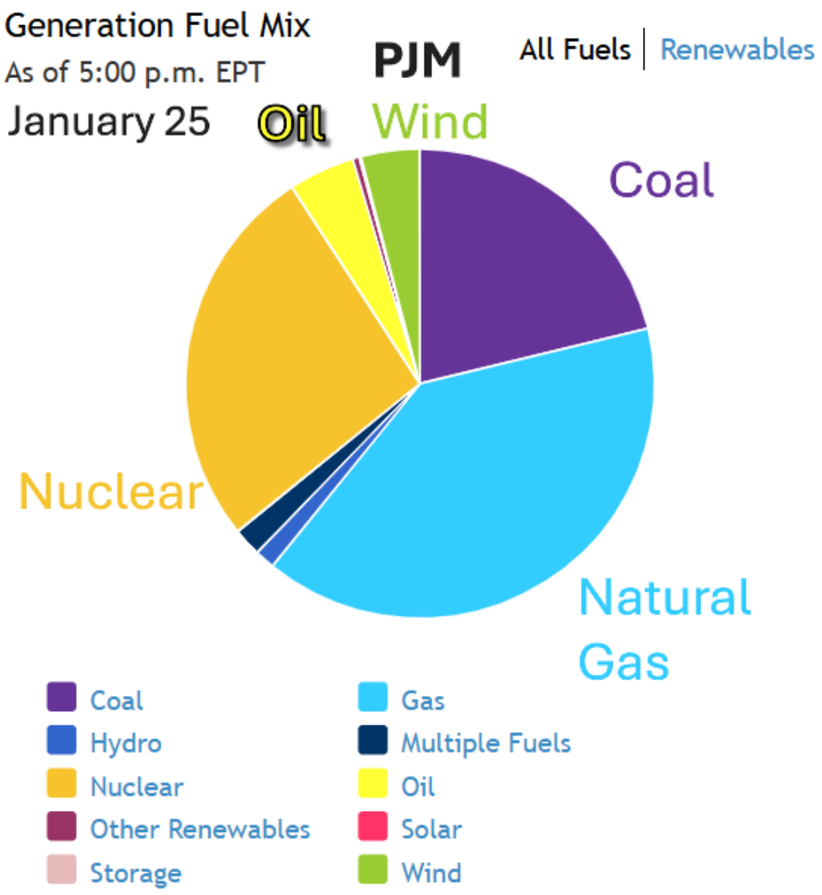
PJM Average: 215 LOLH; worst year: 644 LOLH, 36% load lost

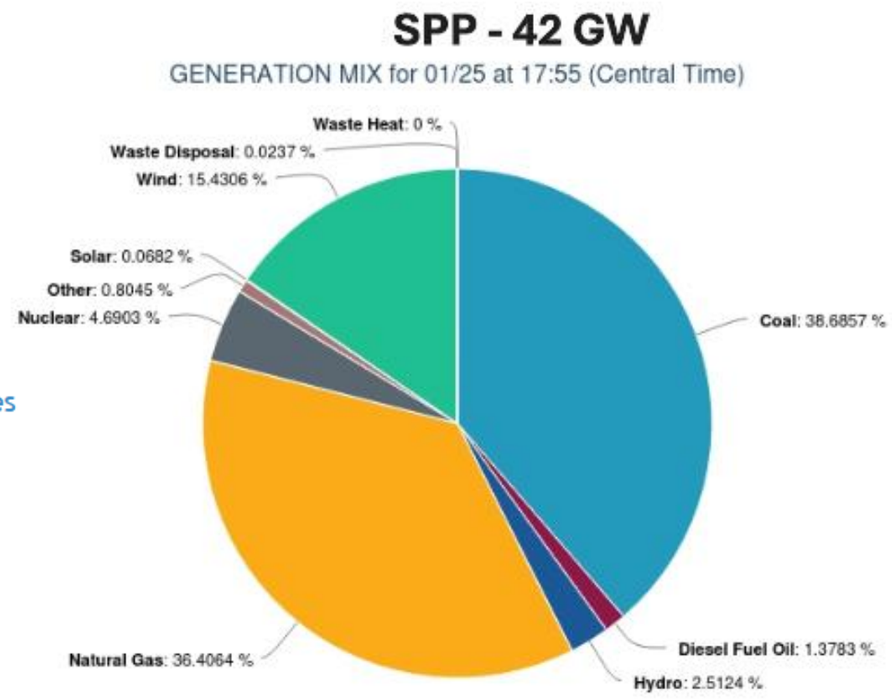
SPP: 48 LOLH average; worst year 19% load lost

ERCOT: 20 LOLH average; worst year: 101 LOLH, 27% load lost

IMAGINE STORM FERN WITHOUT THE RESCUED COAL CAPACITY







IMAGINE MISO DURING HEAT WAVES WITHOUT COAL CAPACITY

MISO's Exciting Afternoon

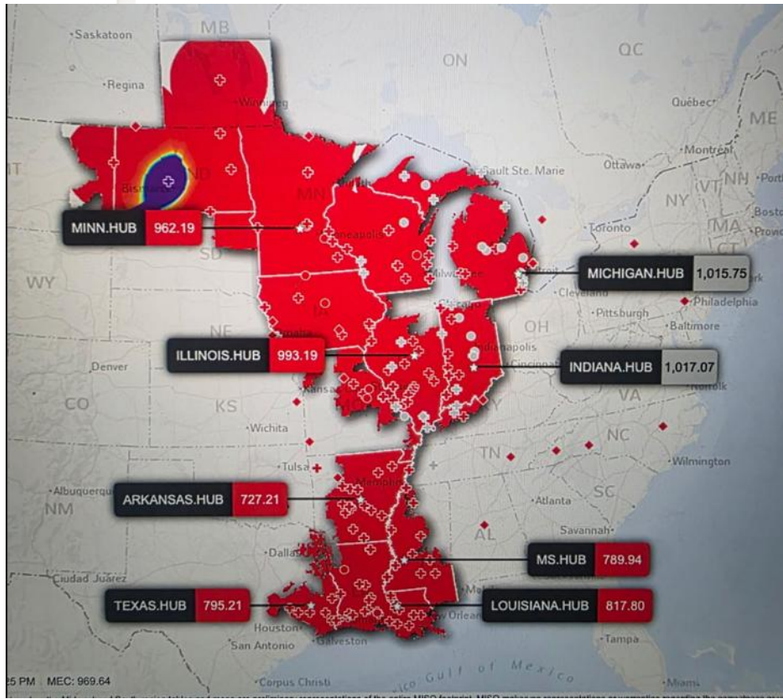
Seven observations for NARUC in Minneapolis next week

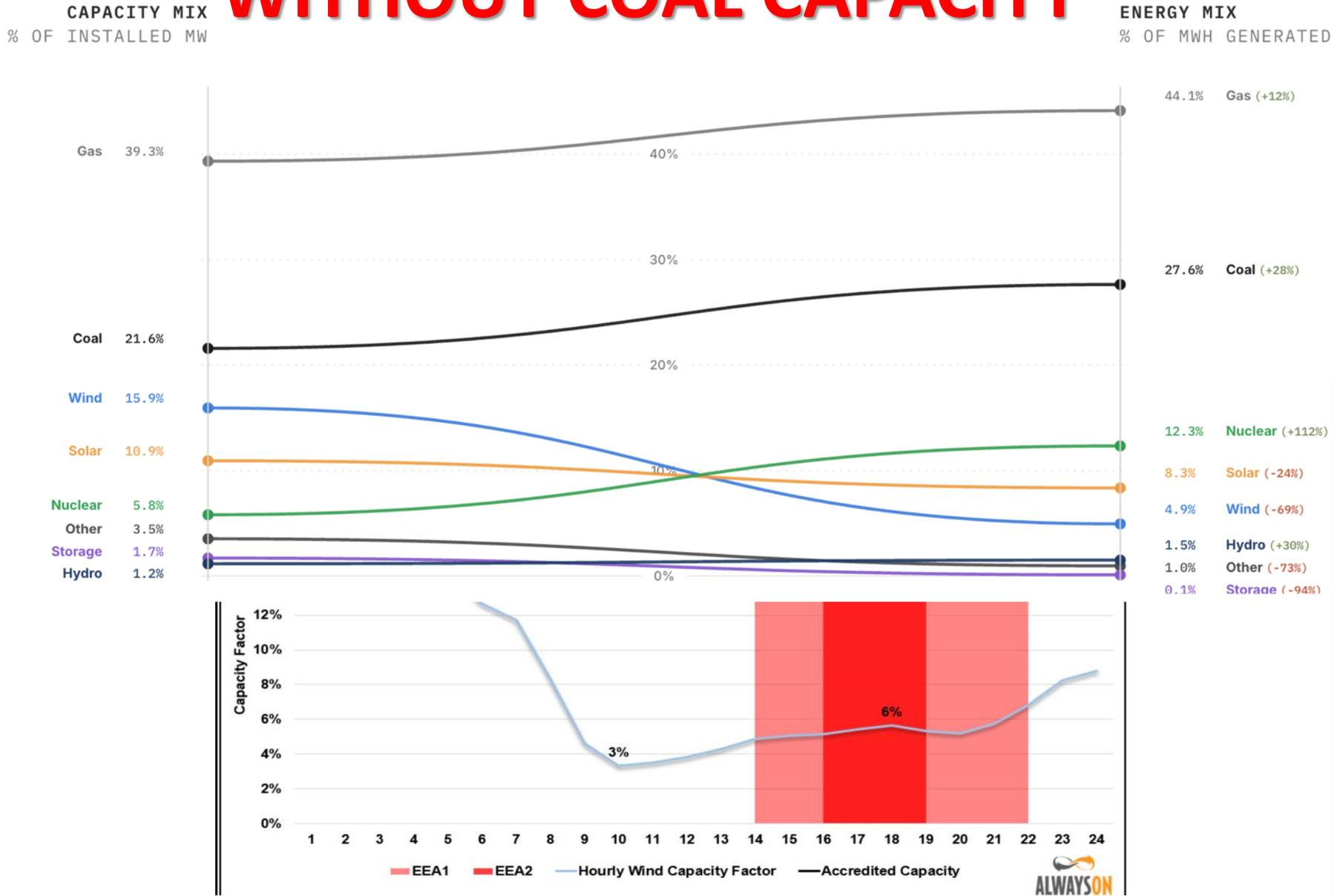
ISAAC ORR AND MITCH ROLLING

JUL 18, 2026

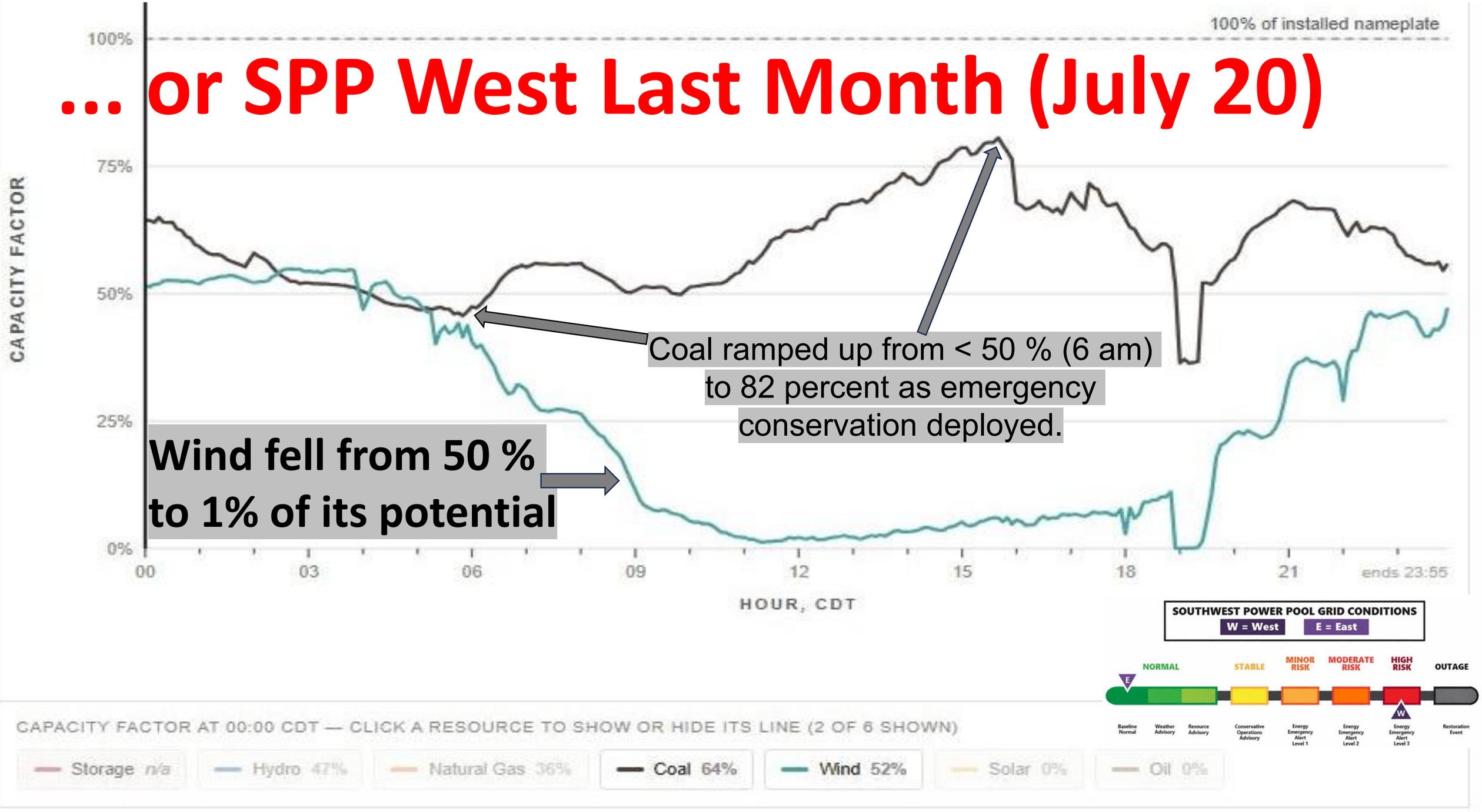
Energy Emergency Alert 2 (EEA 2)

Emergency Power and Actions Required





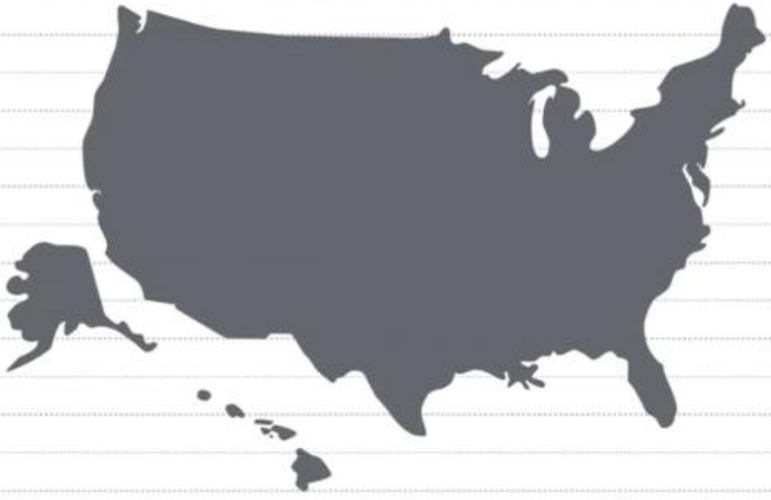
… or SPP West Last Month (July 20)



4.5 Environmental Policy Context

CLEANER AIR IN AMERICA

ECONOMIC GROWTH, LOWER POLLUTION



200%
180%
160%
140%
120%
100%
80%
60%
40%
20%
0%
-20%
-40%
-60%
-80%
-100%

GDP +165.0%

MILES DRIVEN +111.2%

POPULATION +43.3%

OZONE -32.1%

PARTICULATE MATTER* -40.6%

NITROGEN DIOXIDE -60.4%

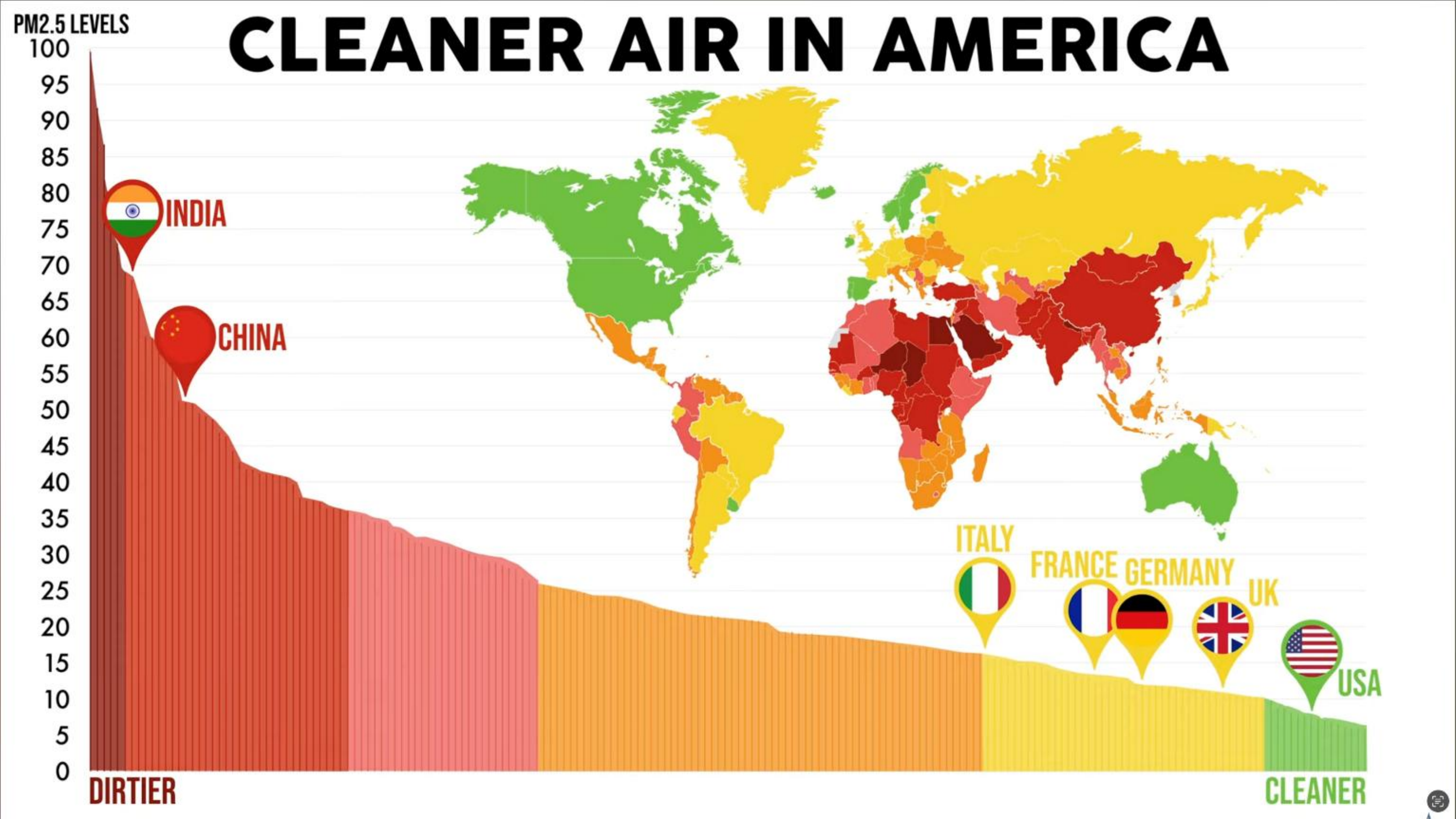
CARBON MONOXIDE -84.2%

SULFUR DIOXIDE -89.6%

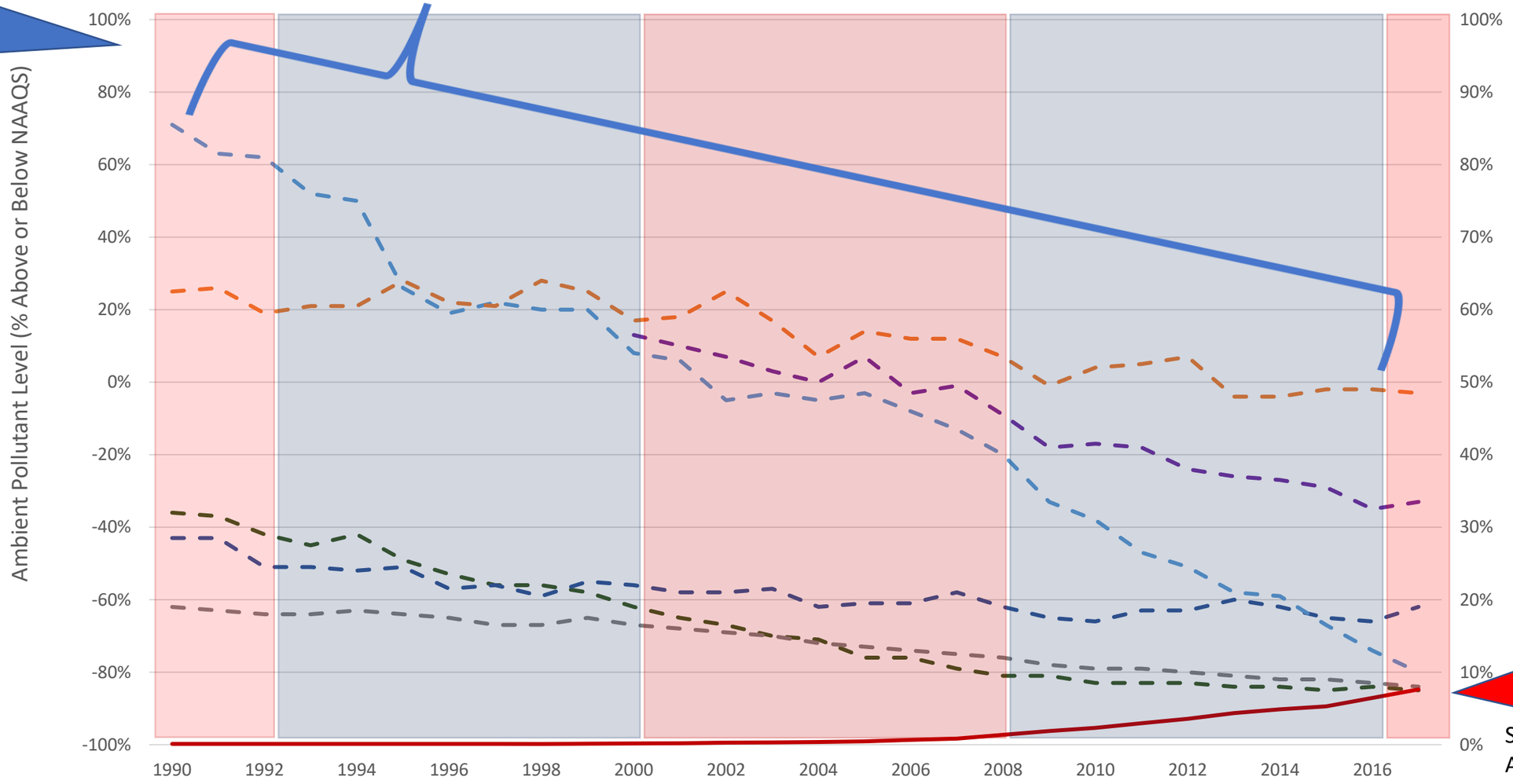
LEAD -99.2%

(*SINCE 2000)

CLEANER AIR IN AMERICA



REMINDER: The U.S. Made its Air Safe with Technology, Not Anti-Fossil Fuel Ideology



Note: Majority of Reductions Achieved Before Deployment of Renewable Energy

Sources: Environmental Protection Agency, Air Trends Report 2018; Energy Information Administration, Total Energy Data Browser

THESE ARE THE POLLUTANTS WE KNOW CAN HURT PEOPLE

2025-2027+ Regulatory Reform Timeline

2025	2026	2026	2026	2026	2027+
PROPOSED June: MATS Repeal June: CPS Repeal July: 202 Repeal July: GHG Reporting July: TSCA Reform Sept: CCR Deadlines Oct: Regional Haze SIP Requirements Nov: ELG Repeal Nov: WOTUS Rule	**PROPOSED** Jan: CCR Reform Jan: NSR Reform - Public Participation Jan: NSR Reform - Begin Construction Jan: Common Sense Accidental Release Jan: Good Neighbor Plan Q1: 111(d) Reform 2026: Ozone SIP Requirements 2026: EPA NEPA 2026: Air Sampling Reform 2026: SIP Reform - Emission Reports 2026: PM NAAQS Revisitation	**PROPOSED** 2026: PFAS Determinations 2026: Citizens Suit Notice 2026: Ozone Transport Phase 2 2026: PFAS Reporting **FINAL** Jan: CT NSPS Q1: 202 Repeal Jan: Ozone Transport Phase 1 Q1: GHG Reporting Q1: CPS Repeal Q1: MATS Repeal	**FINAL** Q1: Title V "Applicable Requirements" Q1: Startup, Shutdown, Malfunction Q1: Exceptional Events Jan: PM NAAQS Revisitation Jan: SIP Reform - Emission Reports Jan: Ozone SIP Requirements Jan: Common Sense Accidental Release	**FINAL** Jan: WOTUS Rule Feb: PFAS Determinations Feb: Citizens Suit Notice Apr: TSCA Reform May: ELG Repeal June: Air Sampling Reform June: 111(d) Reform Aug: Ozone Transport Phase 2 Aug: NSR Reform - Public Participation Sept: NSR Reform - Begin Construction Oct: CCR Reform Dec: Regional Haze (3rd Planning Period Extension)	Jan: NPDES Reform TBD: PFAS in the Environment TBD: NESHAP for CTs TBD: Lead NAAQS TBD: NOx NAAQS

Current EPA GHG Reform Roadmap

Tailpipe Endangerment Finding Repeal

Feb 2026: Finalization of the repeal of the 2009 Endangerment Finding under the "cause or contribute" standard.

CPP 2.0 Repeal – Part 1 (CCS Mandate)

Sent to OMB on May 15, 2026: Finalization of alternative rationale for the repeal of Clean Power Plan 2.0, arguing that 90% Carbon Capture and Sequestration (CCS) is not an "adequately demonstrated" or "achievable" BSER.

CPP 2.0 Repeal – Part 2 (Non-significant contribution finding Re-proposal)

Expected in Q3 2026: Re-proposal of the primary rationale for repealing Clean Power Plan 2.0 – failure to meet materiality standard in Section 111(b)(1)(A) of the CAA with (likely will be based on supplemental technical support expanding on “futility” data in Tailpipe Final Rule).

CPP 2.0 Repeal (Non-significant contribution finding)

Estimated Q1-2 2027: Expected finalization of the finding that will prohibit any further carbon regulation of power plants under 111.

EPA'S DURABLE GHG DEREGULATION STRATEGY FOR THE POWER SECTOR

THE PROBLEM — Biden's Clean Power Plan 2.0 mandates CCS for new and existing coal and new baseload gas plants, making new fossil fuel generation effectively infeasible amid tone of the largest electricity demand surges since the dawn of the industrial age. Three administrations of regulatory whiplash have created profound investment uncertainty. **The strategy: pursue multiple parallel legal tracks on separate dockets so the deregulatory framework survives because it does not depend upon success in every legal challenge – the opponents of the effort have to run the table to achieve their goal of EPA using the clean air act to set energy policy.**

TRACK 1 — §111(b) | PRIMARY EGU DEREGULATION

June 2025 EPA Proposal — Two Legal Rationales in One Docket *Status: Proposed; Final Rule pending OMB review*

RATIONALE 1 — Clean Repeal of CPP 2.0 under §111

Repeals the Biden EPA's Carbon Pollution Standards on technology grounds: **CCS not adequately demonstrated; costs unreasonable** ($85–135/ton actual; 45Q credit covers only 12 of 40 plant-life years); **natural gas co-firing not feasible** (most plants not designed for it; requires massive new pipeline build-out).

RATIONALE 2 — Non-Significant Contribution (NSC) Finding ★ KEY TO DURABILITY

§111(b)(1)(A): In EPA's judgment, GHG emissions from power plants do **NOT** "contribute significantly" to air pollution that endangers public health or welfare.

The Science: Even eliminating all U.S. GHG emissions by 2050, global CO_2 concentrations fall by less than **1.08%.** The power sector alone accounts for less than **0.195%** of global CO_2 concentrations by 2050 — an immaterial contribution to any global phenomenon.

If Upheld: Removes EPA's statutory authority to regulate GHGs from EGUs under §111 — entirely and durably, regardless of future administrations.

If NSC Finding is challenged in court →

FALLBACK — §111 Replacement Rule with State-Primary Cooperative Federalism

§111(b) New Sources: BSER based on efficiency/heat-rate improvements or best practices — not CCS. Possible §111(h) non-feasibility finding for coal.

§111(d) Existing Sources: State-primary framework — each State sets standards reasonably moored to the CAA; cooperative federalism restored.

TRACK 2 — §202(a) | ENDANGERMENT FINDING

2009 ENDANGERMENT FINDING RESCISSION §202(a) — February 18, 2026

EPA finalized rescission of the 2009 Endangerment and Cause-or-Contribute Findings under CAA §202(a) — the foundational finding that triggered decades of GHG regulation of mobile and stationary sources.

Why It Reinforces the §111 Strategy:

Both §202(a) and §111(b)(1)(A) use parallel "contribute significantly" language. A finding that GHGs do not satisfy that standard under §202(a) powerfully supports the identical NSC Finding under §111 — and vice versa.

Durability Advantage:

Separate docket → independent judicial review. If the §111 NSC Finding is overturned, this §202(a) finding survives on its own and continues to constrain EPA's authority.

Dual-Track Reinforcement

§202(a) rescission + §111 NSC Finding apply the same legal logic under different statutory provisions with different reviewing courts — maximizing the chances that at least one survives judicial review and permanently constrains future GHG regulation.

TRACK 3 — §111(b) | METHANE & OIL/GAS

METHANE NSC FINDING Oil & Gas Sector — §111(b)

Parallel to the power sector NSC Finding, EPA should re-issue a Non-Significant Contribution Finding for methane from the oil & gas production sector.

Actions Required:

- Supplement 2020 Trump-era administrative record
- Re-issue NSC Finding under §111(b)(1)(A)
- Withdraw Biden's 2024 Oil & Gas methane NSPS
- Withdraw expanded storage/transmission NSPS

⚠ Congressional Action Required

The Inflation Reduction Act's Waste Emissions Charge (WEC) — a methane fee embedded in the Clean Air Act — cannot be removed by EPA rulemaking alone. Legislative repeal is required and is a priority for Congressional leadership.

COMPLEMENTARY LEGAL PROTECTIONS — Operate Independently of the Regulatory Tracks Above

Federal Common Law Displacement

AEP v. Connecticut (2011): The Supreme Court held the Clean Air Act displaces federal common law nuisance suits against power plant GHG emissions. Even if EPA deregulates, no federal lawsuit can fill the gap — the CAA's regulatory framework provides the displacement shield.

BACT / PSD Permitting Update — The Last Loop to Close

As long as any §111 GHG standard remains in force, GHGs are "subject to regulation" under PSD — triggering BACT review for new construction. Amend 40 CFR §§52.21, 51.166, and 70.2 to remove GHGs from the permitting definitions. This closes the final gap and delivers full regulatory certainty for new coal and gas projects.

State Law Preemption — Suncor v. Boulder County

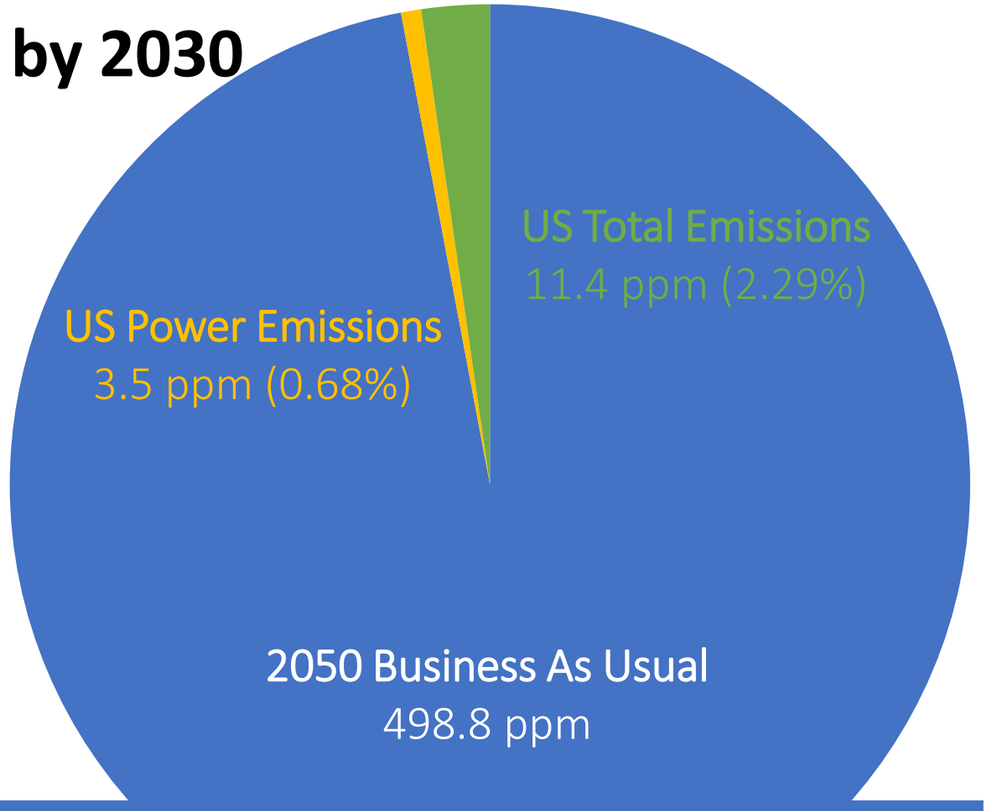
SCOTUS No. 25-170 (decision expected ~2027). If decided on constitutional grounds, this ruling forecloses ~30 pending state-law climate damage suits targeting interstate and global GHG emissions — permanently, and in a way no future administration can undo by resuming regulation.

✓ DURABLE RESULT: New Coal & Gas Generation Freed from CCS Mandates — Framework Survives Regardless of Which Track Is Challenged

Each track (§111 NSC Finding, §202(a) EF Rescission, Methane NSC Finding) operates on a separate docket under a separate judicial standard — if one is overturned, the others independently constrain future administrations from reimposing GHG mandates on the power sector.

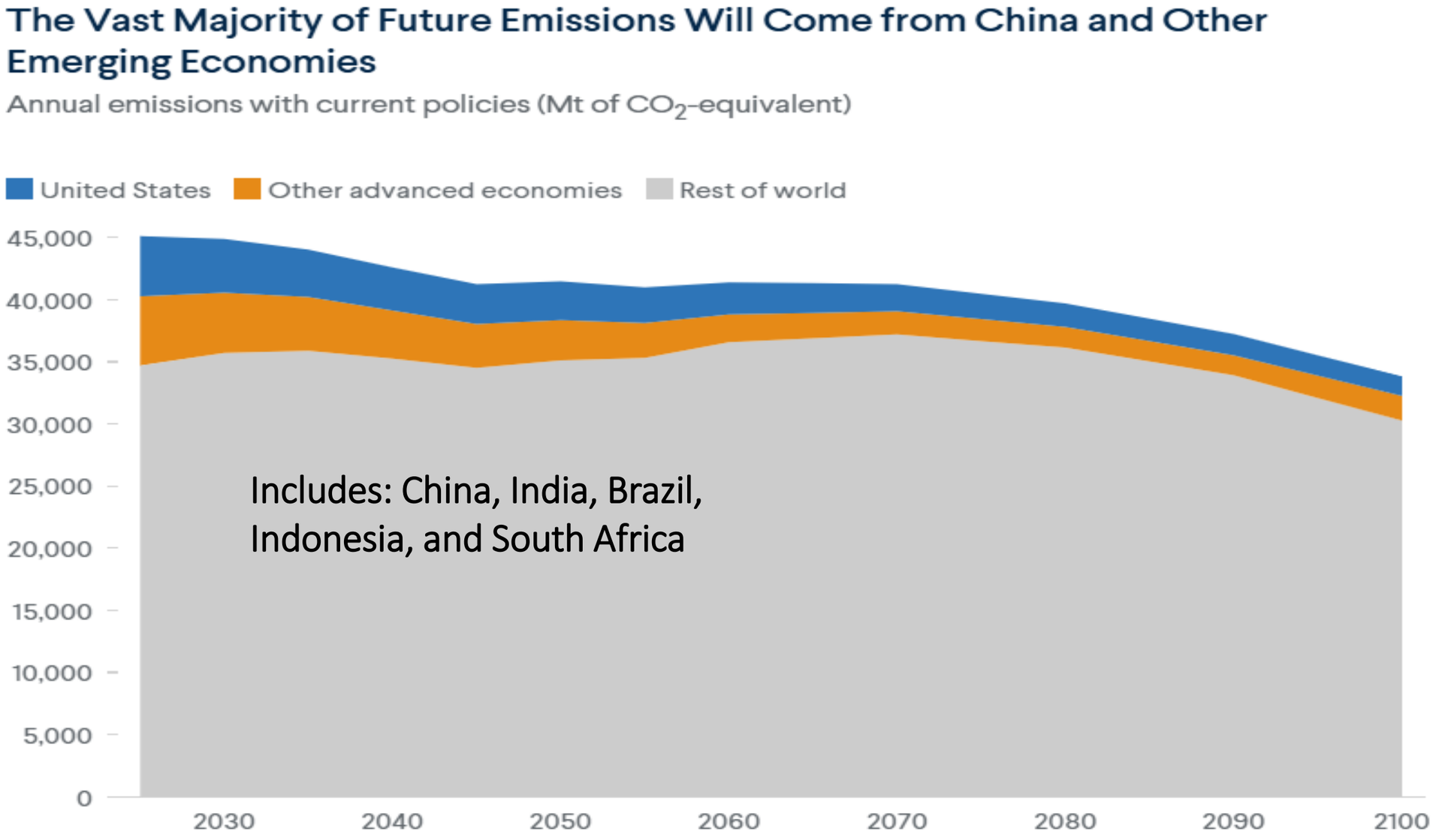
Concentration-based Impact of US GHG Emissions on "Endangerment"

- **2050 impact of decarbonizing <u>entire US economy</u> by 2030**
  - Reduction of 11.4 ppm (2.29%) in 2050
  - Reduction of global temps of 0.052 °C
- **2050 impact of decarbonizing US fleet by 2030**
  - Reduction of 3.5 ppm **(0.68%)** in 2050
  - Reduction of global temps of **0.013-0.015 °C**



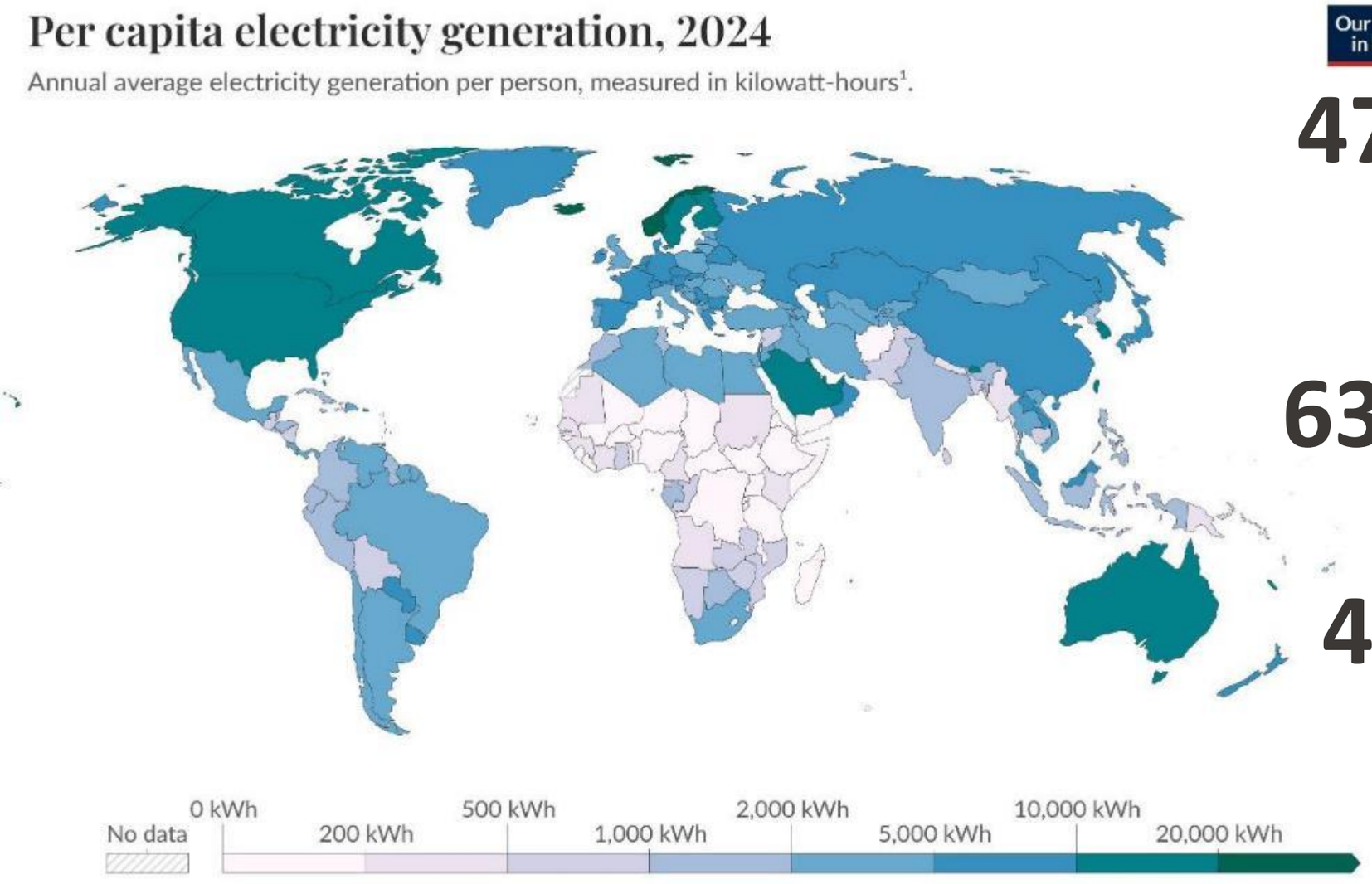
Net zero CO_2 emissions by 2030	2050 CO_2 (ppm)	2050 % Change	2050 Temp. Diff. (°C)	2040 % Change	2040 Temp. Diff. (°C)	2030 % Change	2030 Temp. Diff. (°C)
SSP2-4.5	498.8						
No U.S. Electricity	495.4	0.68%	0.015	0.45%	0.009	0.16%	0.002
No U.S. Emissions	487.4	2.29%	0.052	1.52%	0.030	0.55%	0.008

U.S. Emissions Shrinking Relative to Global Context Over Next 70 yrs



Why the World Will Outpace Us by Orders of Magnitude in Electricity Consumption & GHG Emissions Growth:

They are Focused on Eradicating Energy Poverty Alongside our Global Rivals



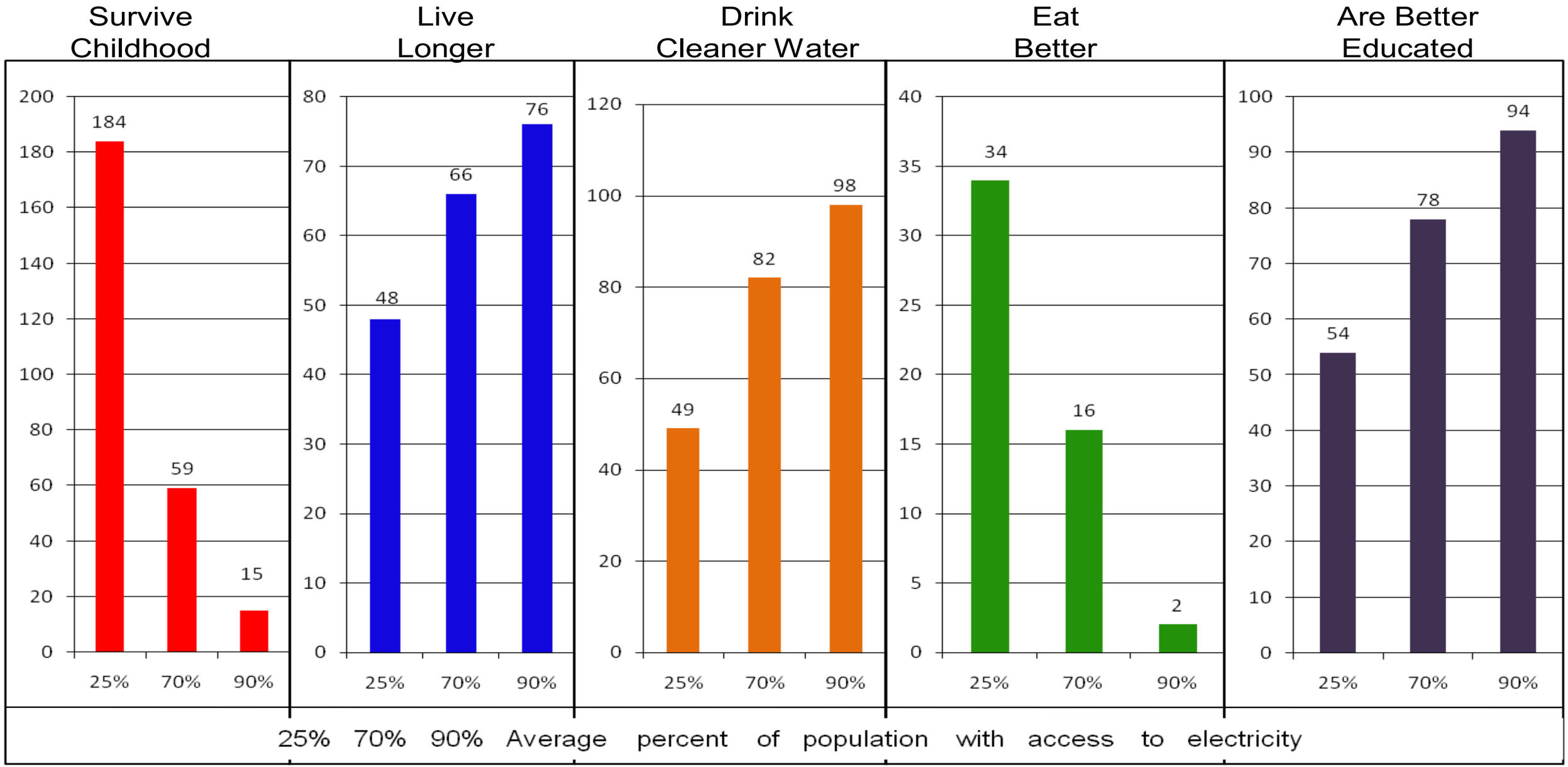
Our World in Data

47% Of the world uses less power per year than the average large U.S. refrigerator(1,200 kWh/y)

63% Of the world is energy starved (<4,000 kWh/y)

4x Global avg (3,500 kWh/y) would have to quadruple to be at U.S. levels *(which are still rising with demand)*

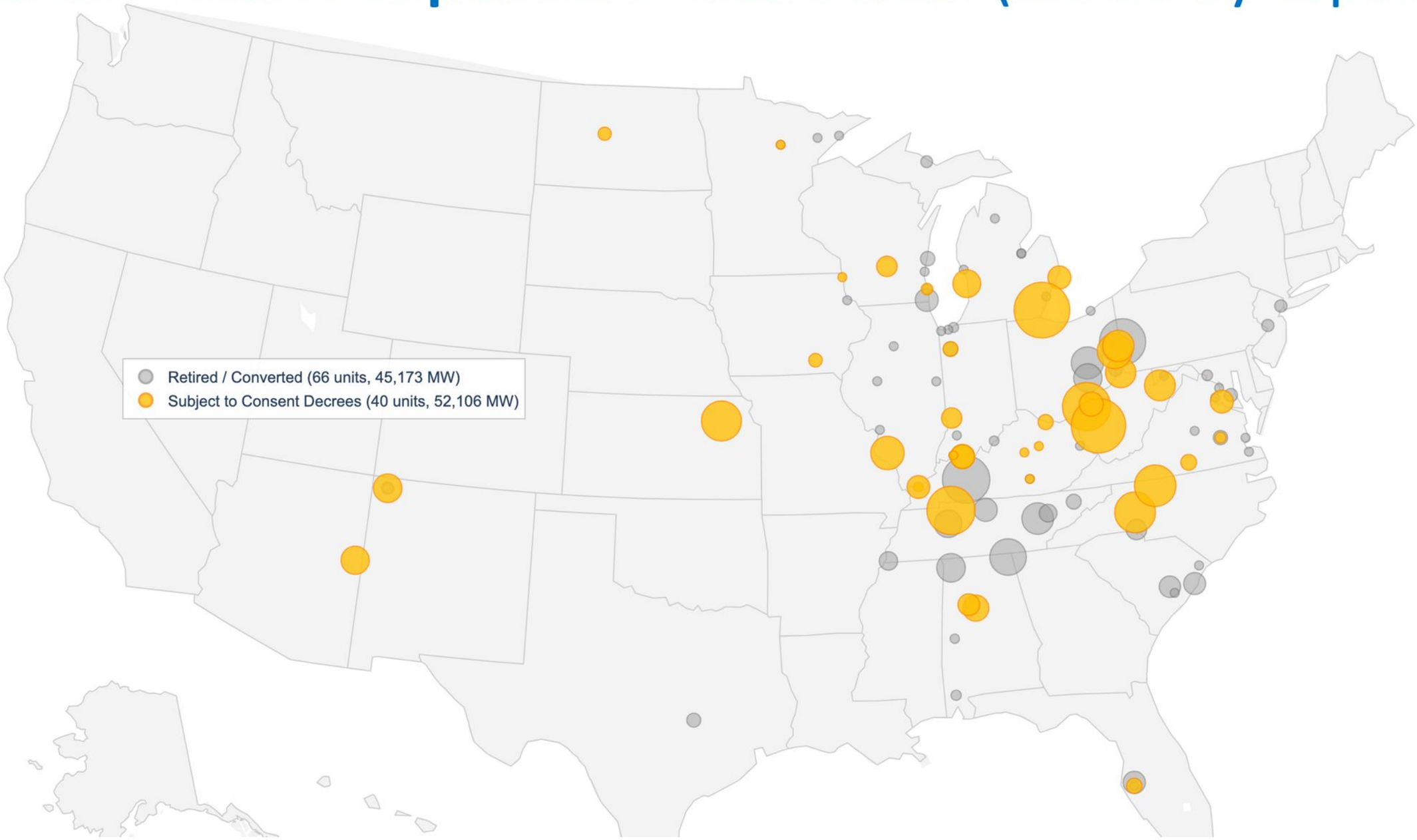
People in Societies with Greater Access to Electricity:



Source: Dr. Frank Clemente
Penn State Univ.

5. Thoughts on Consent Decrees and the Commerce Clause

Consent Decree-Impacted Power Plants (scaled by capacity)



Opportunity for States to Modify Consent Decrees

- Under Rule 60(b)(5), a court can modify a decree when applying it prospectively is **“no longer equitable”**
- The Supreme Court's framework (*Rufo v. Inmates of Suffolk County Jail*) requires the moving party to show:
  - A significant change in circumstances since the decree was entered
  - The proposed modification is suitably tailored to the changed circumstances
  - Enforcement without modification would be detrimental to the public interest

- **Two paths depending on your state’s involvement:**
  - If your state was a party to the original case: Move to modify directly under Rule 60
  - If your state was **not** a party: Seek to intervene under Rule 24, which has a specific provision for state government officers and agencies
- We are mapping consent decrees, ESG ties, and analyzing potential for modification; we can share that research with your office

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Mark P. Mills

Distinguished Senior Fellow

Brent Bennett, Ph.D.

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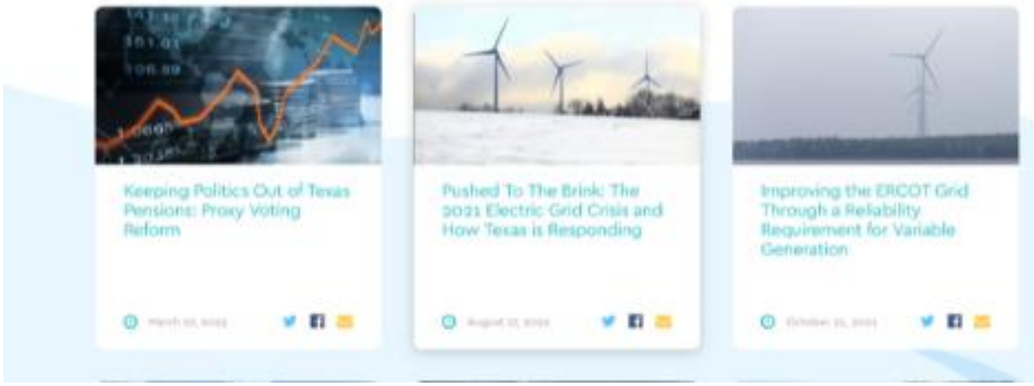
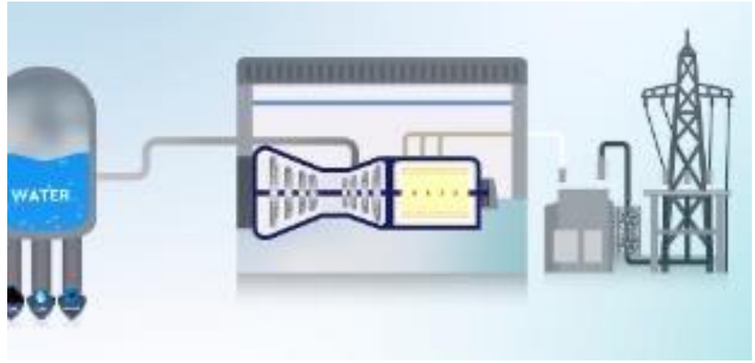
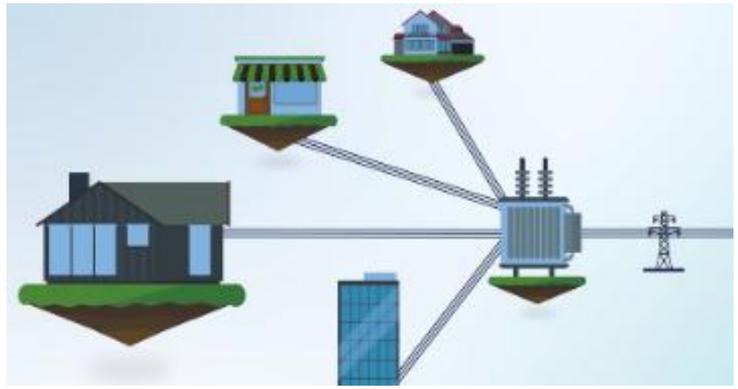


ANIMATED “ENERGY 101” VIDEO SERIES ON ENERGY & ENVIRONMENT

(*www.LifePowered.org*)





VIDEO 1 - Why We Need Electricity
https://youtu.be/ZfrBnddgFAU
VIDEO 2 - The Electric Grid
https://youtu.be/WiMtU6O1SxM
VIDEO 3 - Where Electricity Comes From
https://youtu.be/AKuoIeupGHc
VIDEO 4 - Energy Density
https://youtu.be/6d-HGzZHPG4
VIDEO 5 - Mining and Rare Earths
https://youtu.be/yu3mkFpiGmo
VIDEO 6 - Environmental Technology & Success
https://youtu.be/aodsngzbZqA
VIDEO 7 – Grid Reliability & Resilience
https://youtu.be/aodsngzbZqA
VIDEO 8 –Geopolitical Energy Security
https://youtu.be/aodsngzbZqA

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Questions?