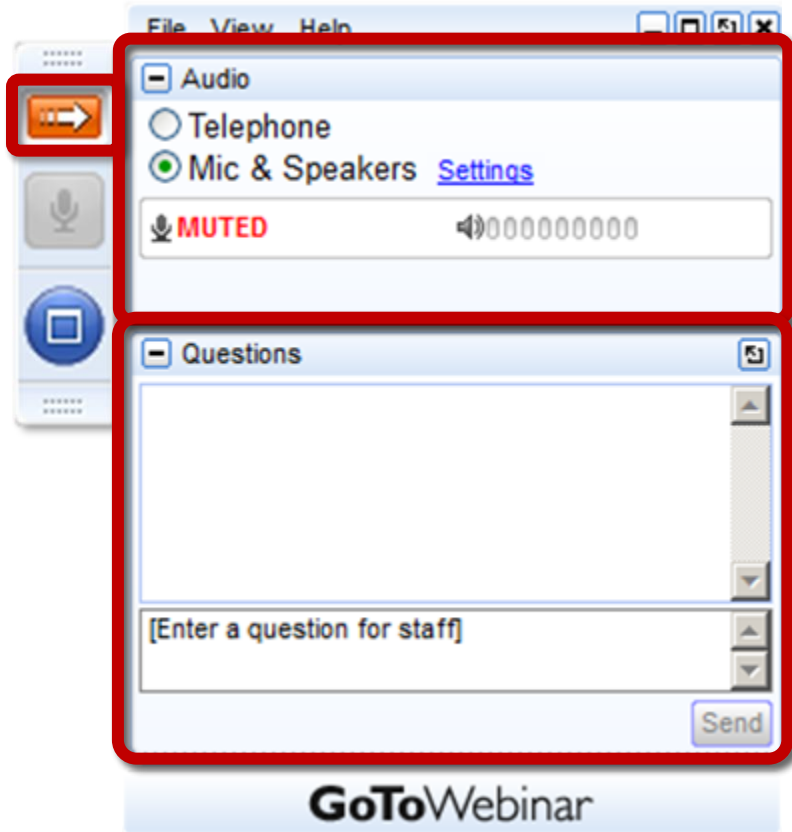




# The Governance of Wholesale Power Markets

*April 12, 2022*

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# CleanEnergy States Alliance



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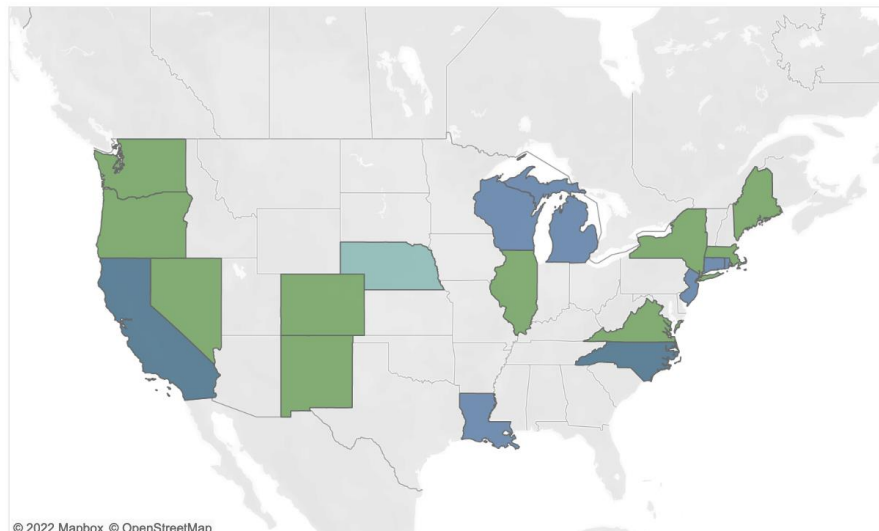
**CleanEnergy  
States Alliance**

# 100% Clean Resources

## 100% Clean Energy States

Regions that have adopted official zero-GHG or 100% renewable energy goals for their power sector or whole economy.

Map	Graphical Timeline	Table Timeline	% of US Sales
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© 2022 Mapbox © OpenStreetMap

Hawaii



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DC



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Puerto Rico



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Authority

- ☒ Executive order
- ☒ Legislation
- ☒ Board decision

Authority

- ☒ Board decision
- ☒ Executive order
- ☒ Legislation

Click on the state to see the authorizing document (legislation, executive order, or regulation).



Coverage

- ☒ (All)
- ☐ Power sector
- ☐ Whole economy

100% RE or Zero GHG

- ☒ (All)
- ☐ 100% RE
- ☐ Zero GHG

Year adopted

(All)

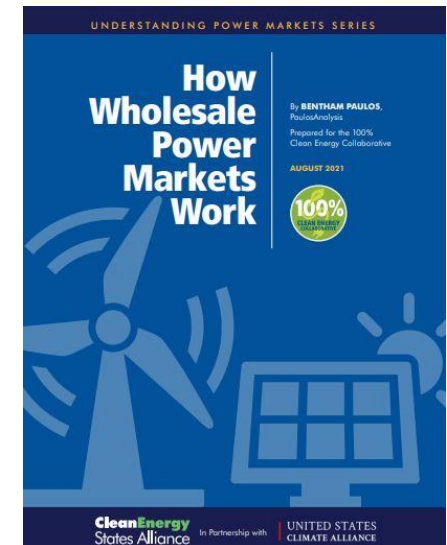
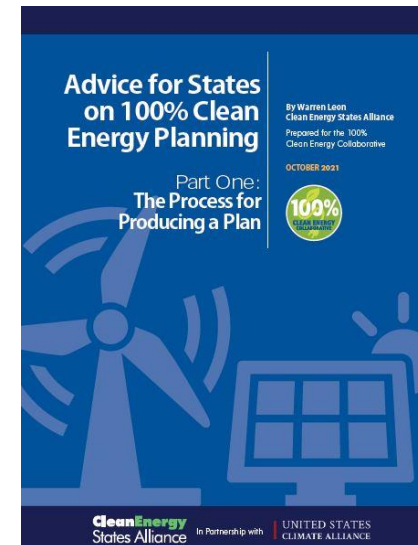
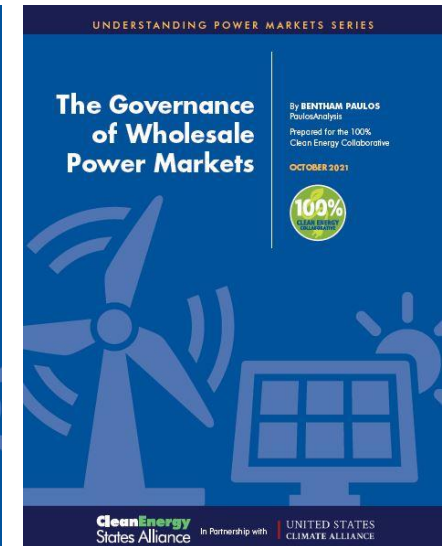
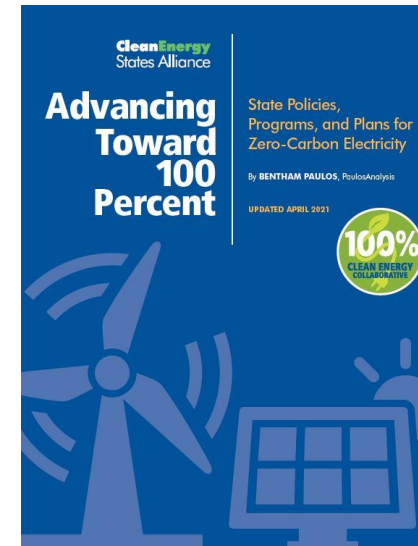
Year of ultimate goal

- ☒ (All)
- ☒ 2030
- ☒ 2032
- ☒ 2040
- ☒ 2045
- ☒ 2050

Cancel

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For more information visit <https://www.cesa.org/projects/100-clean-energy-collaborative/>.





# Webinar Speakers



**Rich Sedano**

President and CEO of  
the Regulatory  
Assistance Project



**Dr. Shelley Welton**

Associate Professor of  
Law, University of South  
Carolina



**Bentham Paulos**

Senior Research Associate,  
Clean Energy States Alliance  
(moderator)

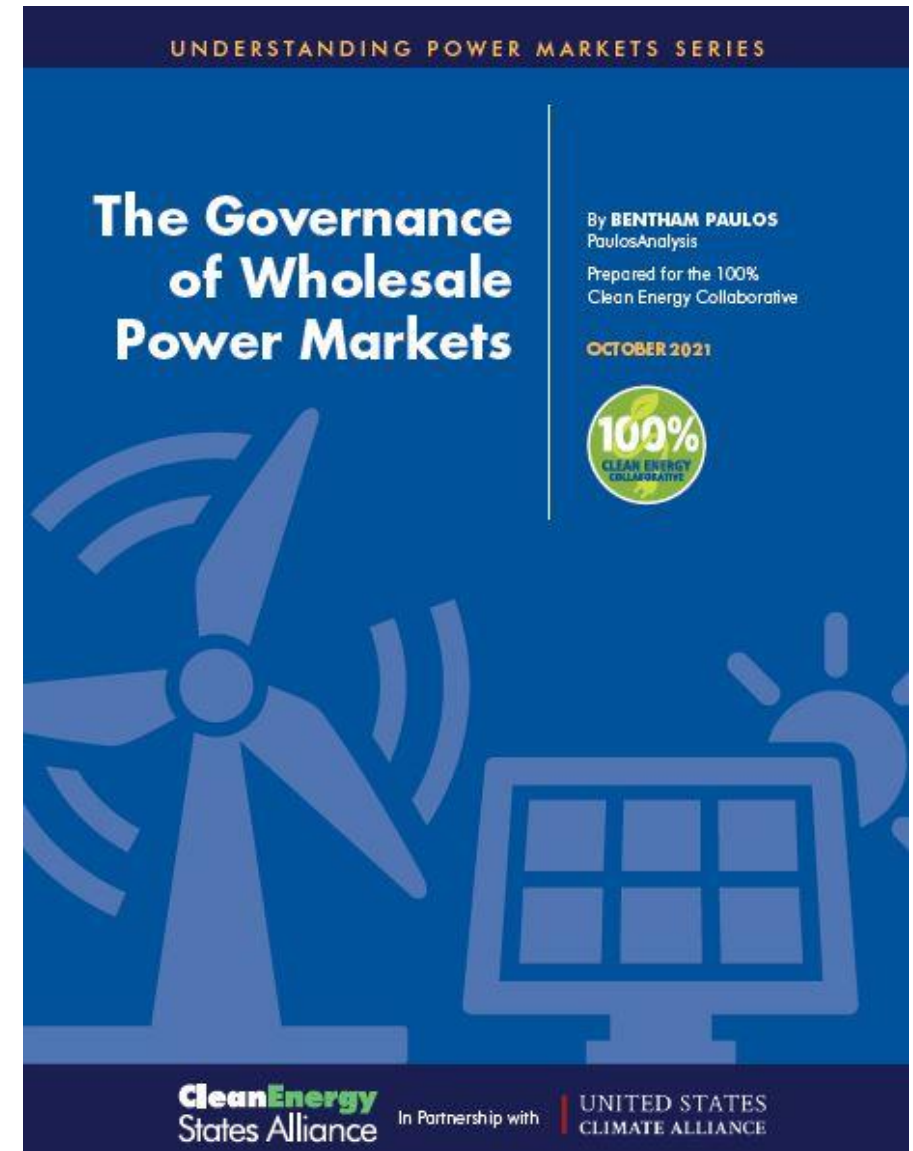


# The Governance of Wholesale Electricity Markets

Bentham Paulos

For the Clean Energy States Alliance

April 2022

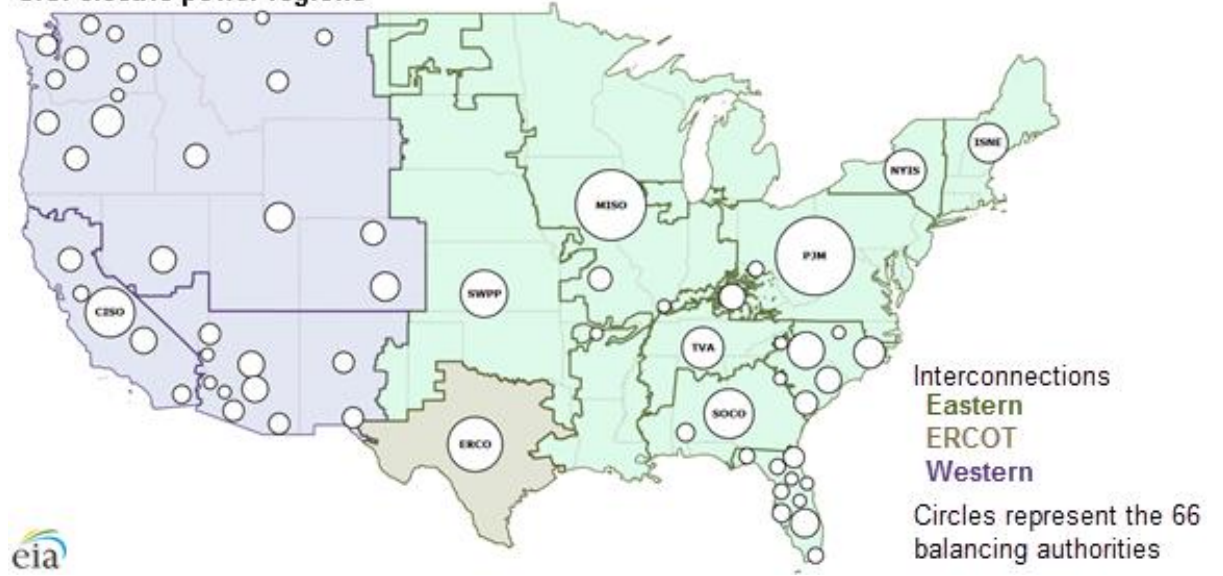


# Know the territory

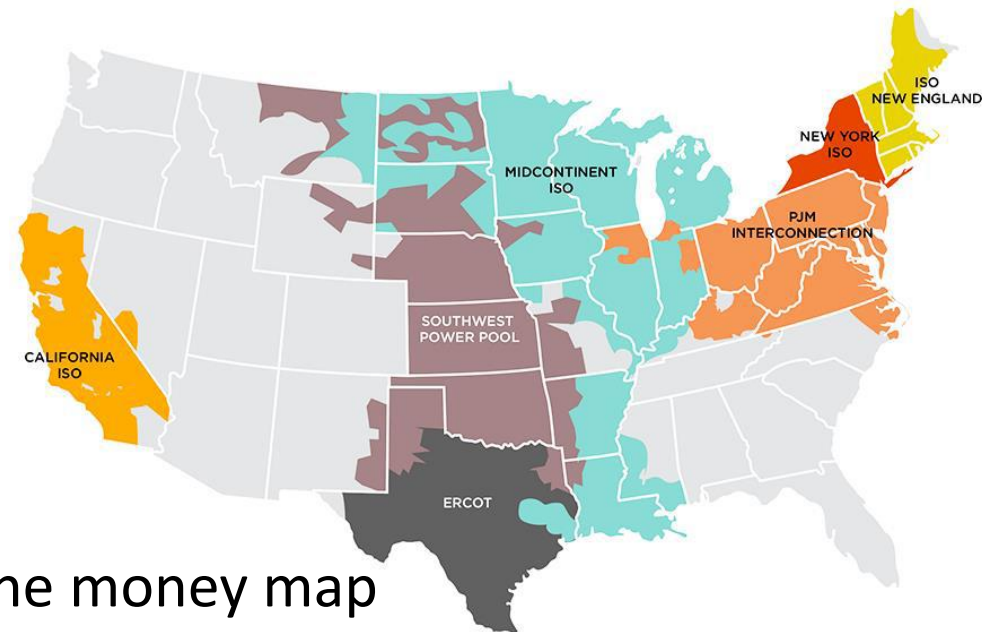


The political map

U.S. electric power regions



The physical map



The money map



# A seat at the table

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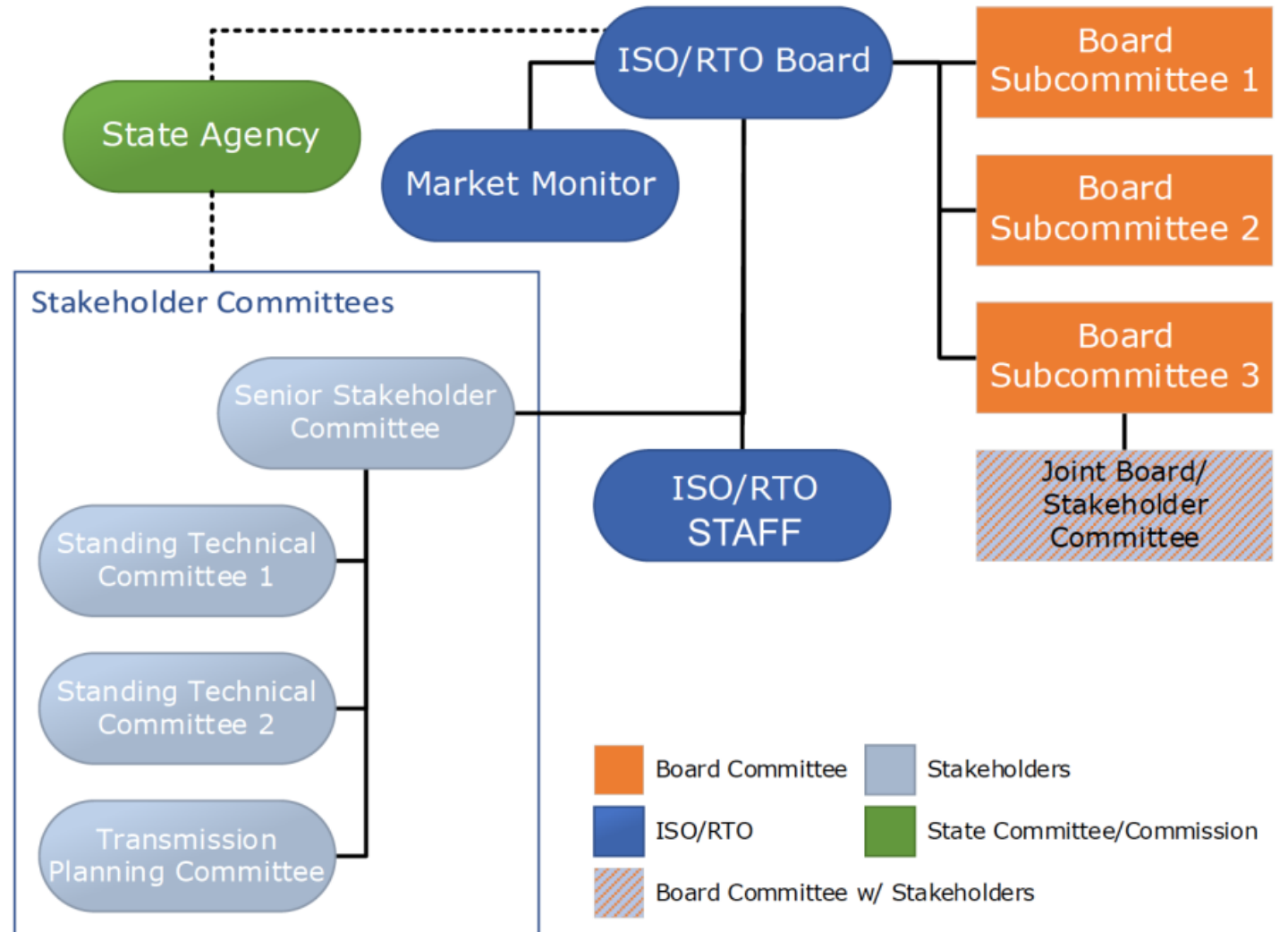
- RTOs are ***voluntary business associations***
- Dominated by ***market participants***
- Many other parties participate but may not be able to vote – including state regulators



# Who is in charge?

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- Varies by RTO
- Ultimately, the Board decides, with oversight from FERC
- BUT much content comes from members
- Many committees, but only some with power





# What are the rules?

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- Tariffs: operating rules
- Agreements: Internal and external, with transmission owners, members, other RTOs
- FERC Orders: often by their own initiative
- Court decisions: can be precedent-setting
- Laws: rare, open to interpretation



# Outside influencers

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- FERC: sets rules, adjudicates, enforces
- Market monitors: independent watchdogs
- NERC: sets technical standards, but no enforcement
- Courts: oversight of FERC
- Congress: rare





# How decisions are made

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- Varies by RTO
- Voting members have much power to initiate and design actions
- Theory: competing interests will help balance proposals
- Practice: board and FERC must adjudicate
- Public interest and small customers are often neglected

# Commentary:

## A critique of governance

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- **Shelley Welton**, Associate Professor of Law, University of South Carolina, but moving this fall to U Penn Law School.
- Her research focuses on how climate change is transforming energy and environmental law and governance. She teaches courses on Administrative Law, Energy Law, Environmental Law and Policy, and Climate Change Law.
- Previously:
  - Deputy Director of the Sabin Center for Climate Change Law at Columbia.
  - Clerked for Judge David Trager of the Eastern District of New York and Judge Allyson Duncan of the Fourth Circuit.
  - Ph.D. in Law from Yale Law School / J.D. from NYU School of Law / Master of Public Administration in Environmental Science and Policy from Columbia University / B.A. from the University of North Carolina at Chapel Hill.



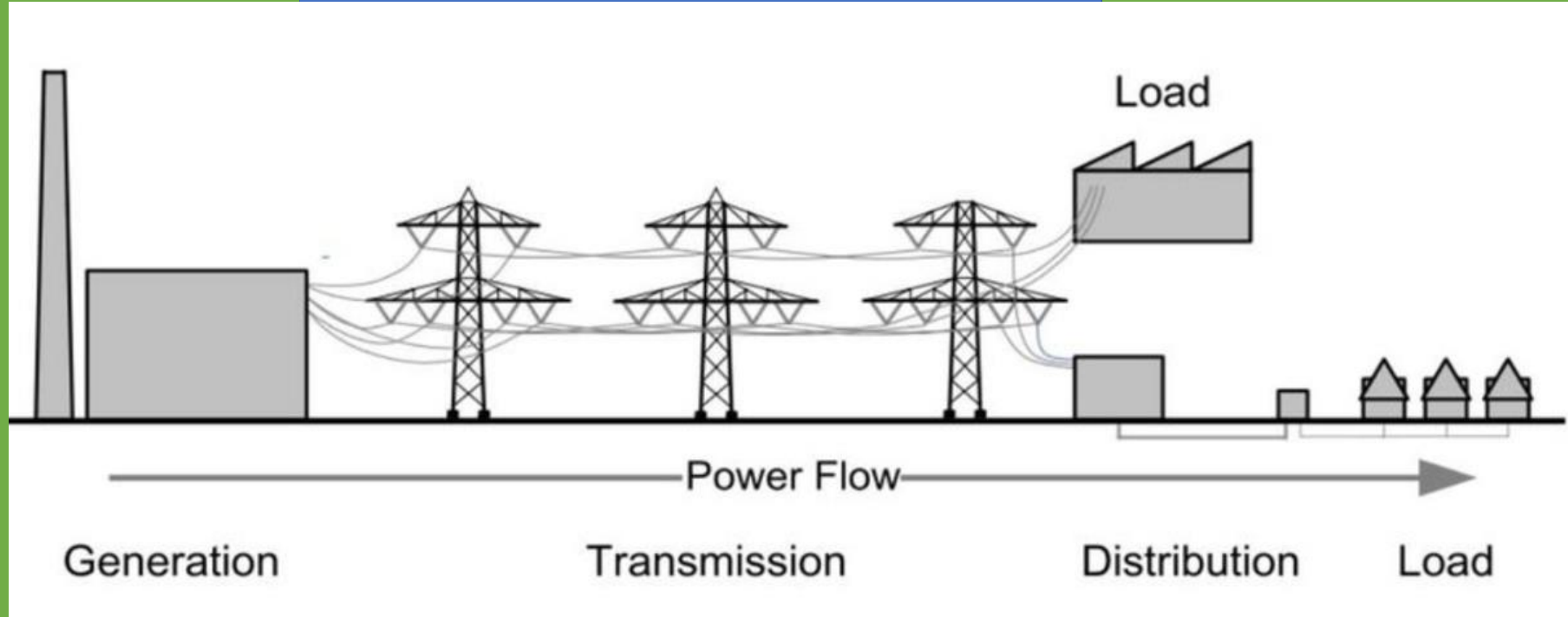


# A critique of governance: relating structure and outcomes

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- RTOs' role as a legal matter
- RTOs' role as a practical matter
- What's broken?

# RTOs' Role as a Legal Matter: “Policy Taker”



State control

FERC Control

State control

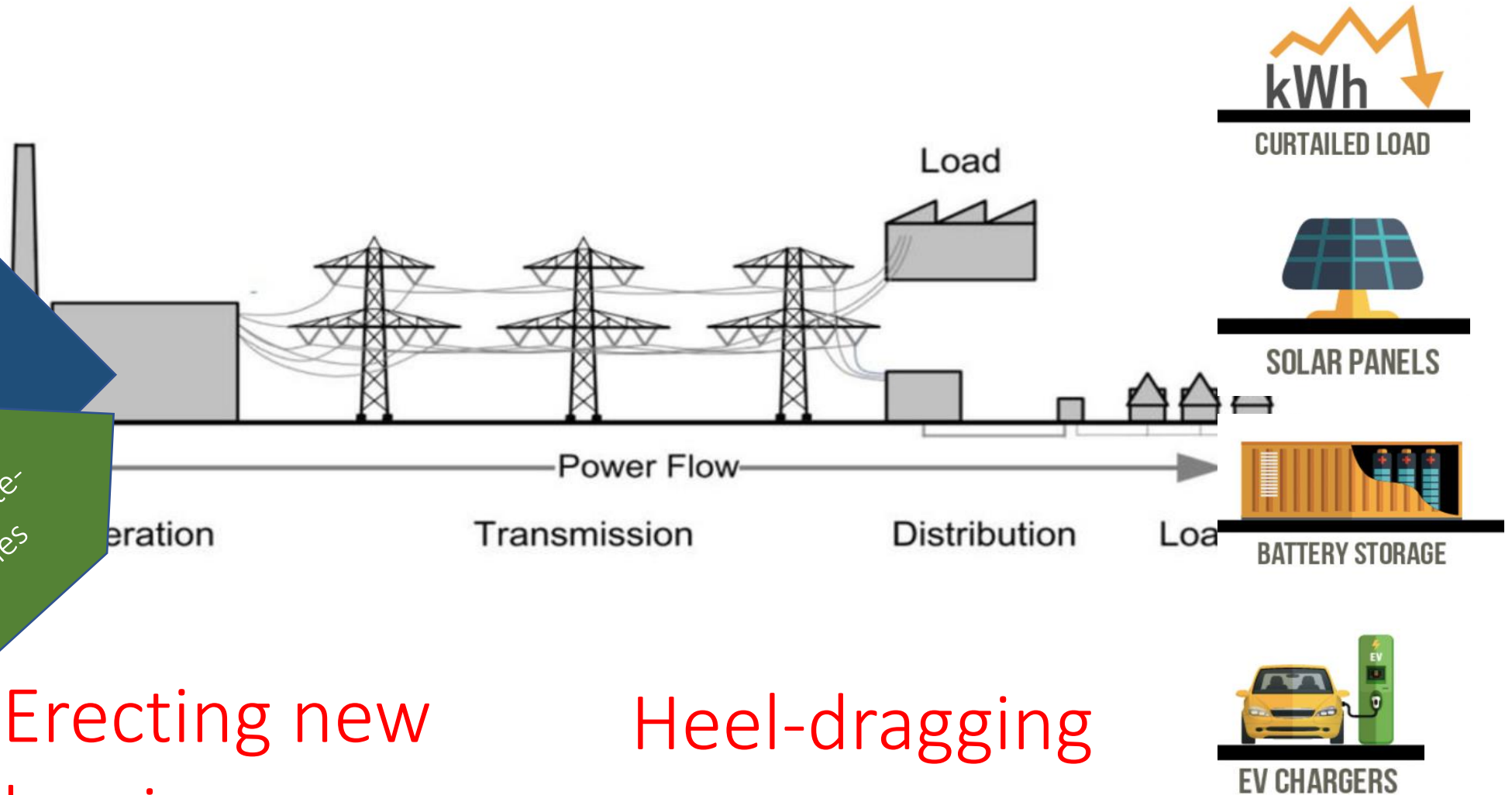
# RTOs' Role as a Practical Matter

62% Fossil Fuels  
19% Nuclear  
7% Hydropower  
7% Wind  
2% Solar

Increasing amount of state-supported renewables

Erecting new  
barriers

Heel-dragging







# What's Broken?

## *RTOs' Accountability Gaps*

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- State regulators & their statutory prerogatives
- Federal regulators & their ability to shape market rules
- Broader public/energy justice voices

*For (too much) more on this topic: Shelley Welton, **Rethinking Grid Governance for the Climate Change Era**, 109 California Law Review 209 (2021)*



# The role of states

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- Competitive states have ceded much authority
- Participating on RTO committees: just another face in the crowd?
- Regional states committees: varying levels of power and capacity
- Collaboration: with RTO, between states, negotiated with utilities
- Soft power:



# Critical topics for 100% states

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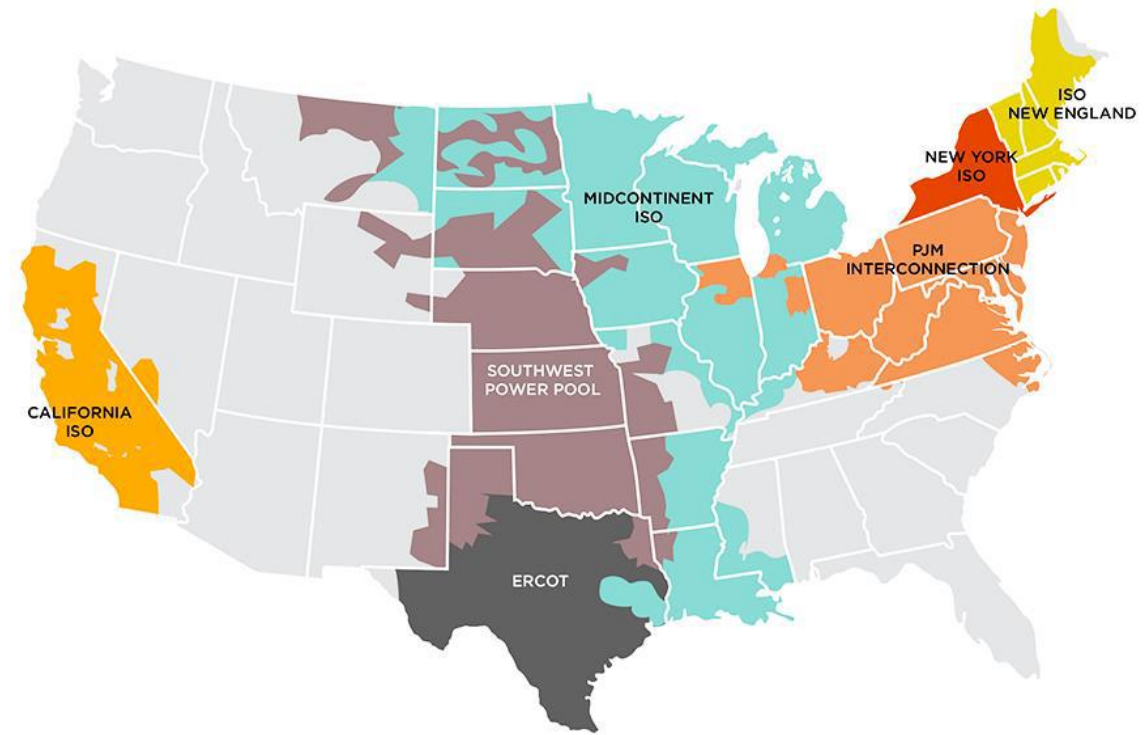
- Resource mix: RPS and IRP
- Resource adequacy: enough power capacity
- Transmission planning: within state borders, influence regional collaboration
- How to connect state policy goals with regional action?





\*States not in RTO regions

- State regulators retain more control
- But there are advantages to cooperation
- Formal and informal arrangements have emerged, are expanding
- Underscores that all RTOs are *voluntary*





## Commentary:

# How can states influence governance?

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- **Rich Sedano** is CEO of the Regulatory Assistance Project ([www.raonline.org](http://www.raonline.org)), where he has worked since 2001
- RAP works on the energy transition in the US, China, Europe and India
- Before that, he was commissioner of the Vermont Department of Public Service. While there he worked with his New England colleagues to guide the formation of ISO-NE, and served on its original advisory committee



# States Can Express the Public Interest

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- That does not mean they always do
  - When states cross a line and speak for private or narrow interests, their influence may be significantly diminished
- Articulating the long run public interest in ways consistent with serving the public – this gets FERC's attention and RTOs too
  - Regional State Committees
  - When states are in conflict, the effect of all is diminished
- Clear public interests
  - Reliability
  - Cost control
  - Fair play in Markets
  - Dynamic Planning
  - Investment incentives
  - Cooperative Federalism

# Cross Currents

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- RTOs have their own interests
  - Maintain members
  - “Manage” FERC
  - Bigness
  - Complexity
  - Role of the board
- Utility/Asset owners have their own interests
  - Maximizing asset value
  - Market share
  - Managing state government

How are new entrants, innovators treated?

What is the state’s interest in new entrants and innovators?

# Emergent Issues & Opportunities

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- Reflecting climate policy in FERC matters, including RTOs
- Redefining wholesale market products that matter (FLEXIBILITY!)
- Offshore wind
- FERC's Office of Public Participation may be important to state constituents
- What does “unjust and unreasonable” mean in a future context?
- Places without RTOs will find utilities motivated to do RTO-like things



# Longer term RTO governance reforms

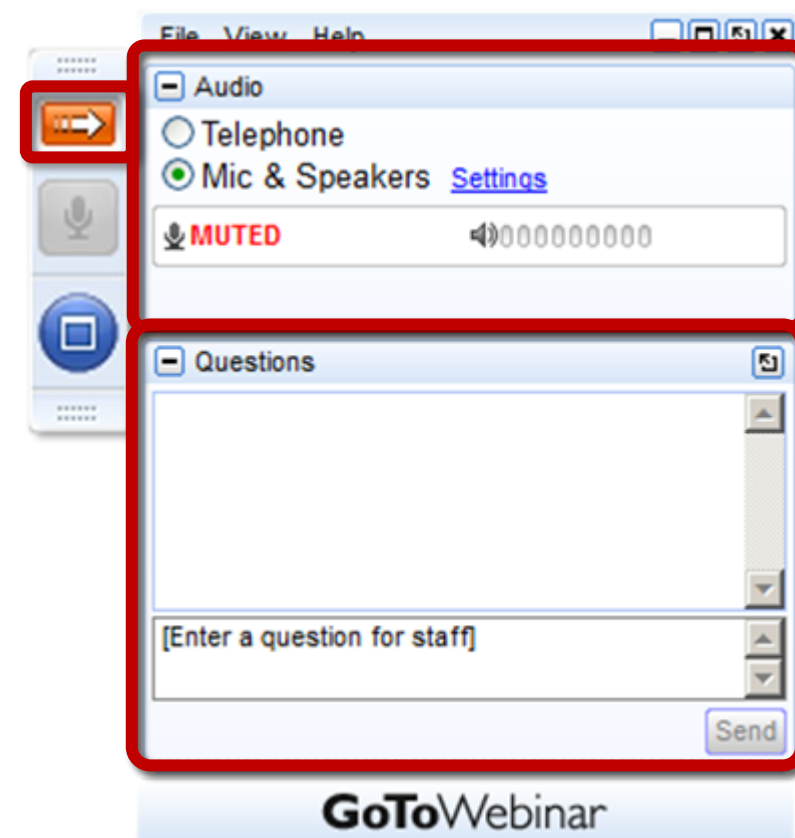
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- Pare Them Back
- Increase Public Oversight and Control
- Improve the Possibilities for Good Internal Governance
- Explore a Public Option



# Please add questions to the “questions” box

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# Thank you for attending our webinar

**Bentham Paulos**

Senior Research Associate  
Clean Energy States Alliance

[ben@paulosanalysis.com](mailto:ben@paulosanalysis.com)



Learn more about the **100% Clean Energy Collaborative** at

[www.cesa.org/100](http://www.cesa.org/100)

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## **An Introduction to the Solar Power in Your Community Guidebook**

*Thursday, April 14, 1-2pm ET*

## **Visualizing Equitable Energy Transitions with SLOPE**

*Tuesday, April 26, 2-3pm ET*

## **Resilience Hubs: Model Overview and Community Case Studies**

*Thursday, May 5, 1-2pm ET*

## **Mobile Solar+Storage for Emergency Management**

*Tuesday, May 10, 12-1:30pm ET*

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