

The background of the slide is a dark gray map of the United States. In the top left corner, there is a yellow rectangular box containing the word "Verrill" in a black serif font.

Verrill

Maine Chamber of Commerce

On the Horizon: What to Expect in the Next Legislative Session

January 6, 2020

Creation of a State-Run Power Authority: Promises vs. Realities

**James I Cohen, Partner
Verrill Dana, LLP**

State-run Power Authority Under Consideration by Maine Legislature

- **LD 1646** would create the “Maine Power Delivery Authority.” The bill was carried over to the Second Session.
 - One-year window for State to negotiate buy-out of Maine’s two investor-owned T&D utilities at net book value
 - If no negotiated purchase, State to seize all T&D assets by eminent domain.
 - The Authority will go out to bid for private contractors to operate and maintain T&D assets.
- **Resolve 2019, c. 107** directed the Maine PUC to study LD 1646 and report back by February 15th.

Why Consider a State-Run Authority?

- Lower rates?
- More reliable service?
- Better management?
- Address climate change goals?

History of Municipalization v. Privatization

- Municipal and cooperative electric utilities in the US were established as early as 1900, with most being formed in the 1920's and 1930s.
- Nebraska is the only state that is comprised predominantly by consumer-owned utilities. There are numerous small and medium-sized districts, formed mostly in the 1930s and 1940s.
- Only 10 of 63 municipalization efforts since 2000 have been completed, 1 of which was sold back to the utility due to mismanagement. Several additional efforts are pending.
- Six municipal utilities have been privatized since 2010. Several more under consideration.
- Maine: Swan's Island Electric Cooperative joined Emera Maine in 2017.
- No state has sought to take over their largest electric utilities.

Verrill

Rates



Rates in Maine are Second Lowest in the Northeast

State	Feb. 2019 Avg. retail price across all sectors (cents/kWh)
Maine	11.08
Michigan	11.53
Maryland	11.81
District of Columbia	12.80
New Jersey	13.48
New York	13.82
Vermont	15.18
California	16.17
New Hampshire	17.80
Massachusetts	19.15
Connecticut	19.82
Rhode Island	21.11
Alaska	20.03
Hawaii	29.70

- 6 more states are within 1 cent of Maine's rate
- Another group of states are within 1.5 cents of Maine

https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a

Comparing Rates Among Maine Utilities

	Delivery Rate			Standard Offer Rate ¢/kWh	Total Rate ¢/kWh
	T&D¢/kWh	Stranded Cost¢/kWh	Total Delivery¢/kWh		
INVESTOR-OWNED UTILITIES					
Central Maine Power*	8.6	-0.2	8.4	7.9	16.3 ¢/kWh
Emera Maine - BHD*	10.2	0.7	10.9	7.2	18.1 ¢/kWh
Emera Maine - MPD*	7.4	-0.1	7.3	7.4	14.7 ¢/kWh
COOPERATIVES & MUNICIPAL-OWNED					
Eastern Maine Electric Cooperative	9.7	N/A	9.7	7.6	17.3 ¢/kWh
Houlton	3.4	N/A	3.4	6.9	10.3 ¢/kWh
Van Buren	4.9	N/A	4.9	7.0	11.9 ¢/kWh
Kennebunk Light & Power	5.0	N/A	5.0	8.0	13.0 ¢/kWh
Madison Electric Works	7.5	N/A	7.5	7.7	15.2 ¢/kWh
Matinicus	Exempt from Standard Offer requirements				49.4 ¢/kWh
Monhegan	Exempt from Standard Offer requirements				74.7 ¢/kWh
Fox Island	20.4	N/A	20.4	10.0	30.4 ¢/kWh
Isle au Haut	43.7	N/A	43.7	7.2	50.9 ¢/kWh
Swans Island**					
STATE AVERAGE	8.7	-0.1	8.7	7.8	16.5 ¢/kWh

https://www.maine.gov/mpuc/electricity/delivery_rates.shtml

- Geography and population density matter more than form of ownership.
- Consumer-owned island utilities are the most expensive, by far.
- Eastern Maine Electric Coop (public) is most similar to CMP and Emera Maine (private), and its rates are higher than those of CMP and Emera Maine's – Maine Public District.
- Since electricity is generally not produced by electric utilities in Maine, rates for electricity (about 50% of a customer's bill) would not change under public power.

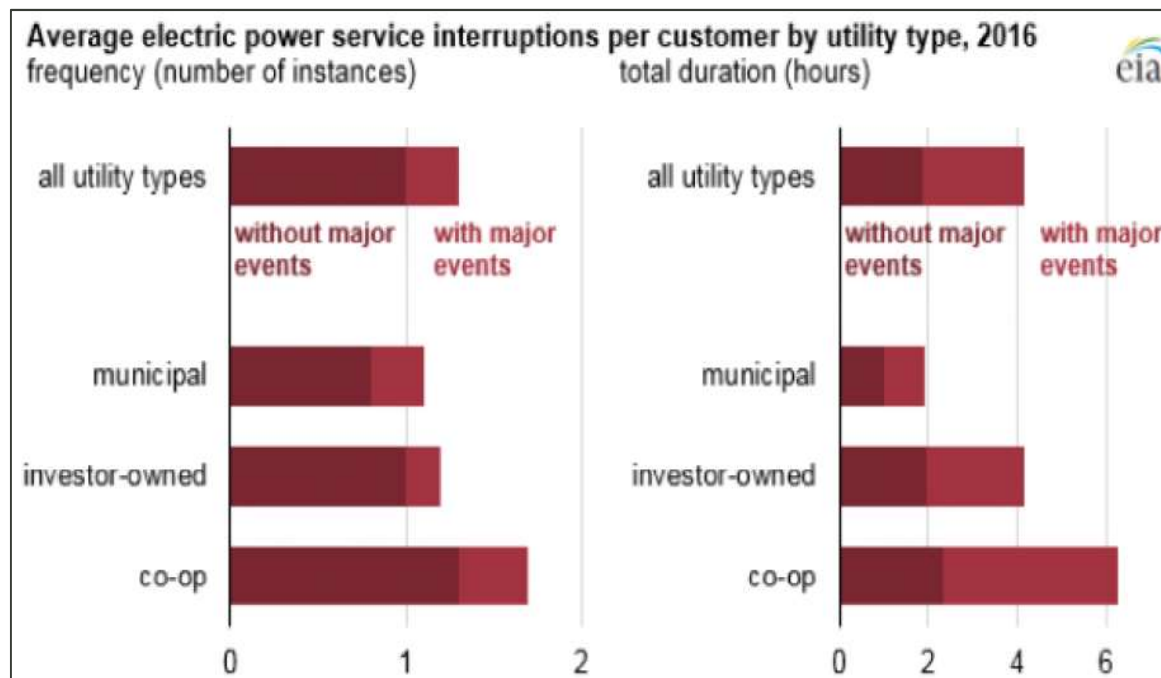
Maine COUs exempt from many requirements imposed on Investor-Owned Utilities

- Enter into enter into long-term contracts for renewable energy capacity.
- Net Energy Billing.
- State and local taxes.
- And there are a dozen other requirements unique to CMP and Emera Maine.
- Combined, these additional government requirements uniquely raise the rates of CMP and Emera Maine, burdens not shared by Maine's consumer-owned utilities.

Verrill

Reliability

Grid Reliability



<https://www.eia.gov/todayinenergy/detail.php?id=35652>

Municipal districts tend to be geographically compact and less rural than investor-owned utilities or cooperatives. Co-ops have the lowest rated reliability.

Reliability – Trees and Weather



<https://www.fia.fs.fed.us/library/maps/index.php>

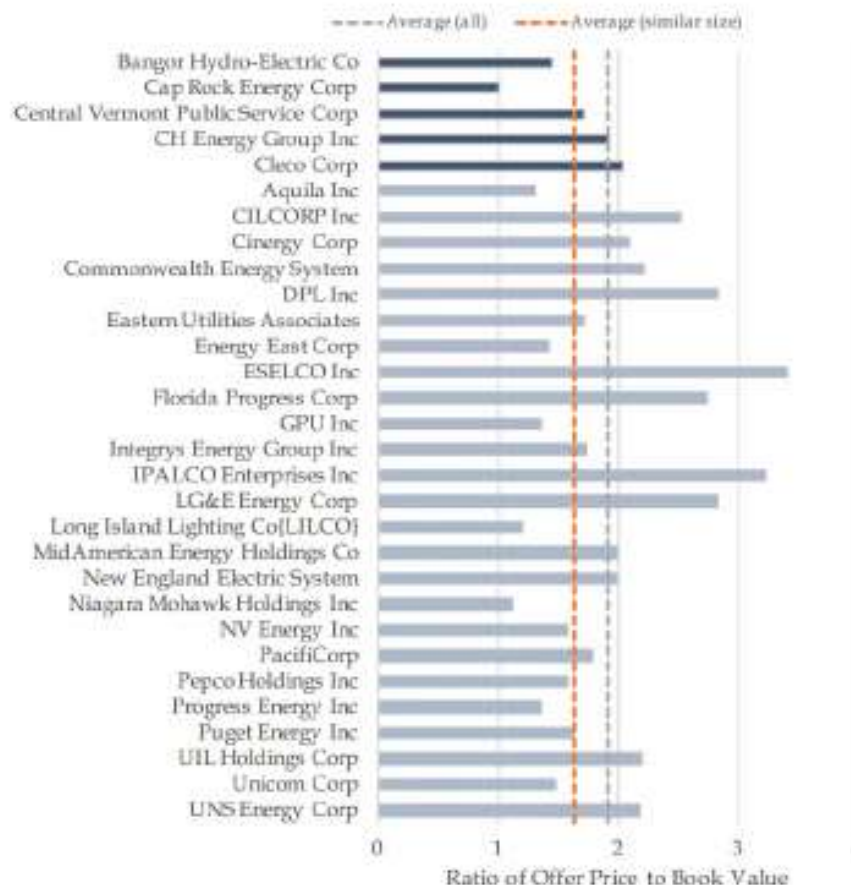
- Maine is more forested and has more coastline than nearly every other state, which increases outages. Nebraska (public power) has few trees and no coast.
- 2017 was an outlier year. In the years prior to 2017, CMP had better reliability than many of the larger Nebraska utilities.



Acquisition Risks

\$7-9 Billion Acquisition Price

- Fair Market Value determines amount Maine would need to pay in an eminent domain proceeding. It would be the same if the government tried to take someone's home.
- Courts look to such relevant and timely "comparable sales"
- In March 2019, Emera, Inc. agreed to sell Emera Maine for twice its book value. This comparable sale is about as "relevant" and "timely" a comparable as one could expect in an eminent domain proceeding.



London Economics, Inc., Empirical Research to Support the Assessment of Hawaii Electric Utility Ownership Models, Figure 10, pg. 27 (Oct. 28, 2017) (<https://energy.hawaii.gov/wp-content/uploads/2019/06/Task-1.pdf>)

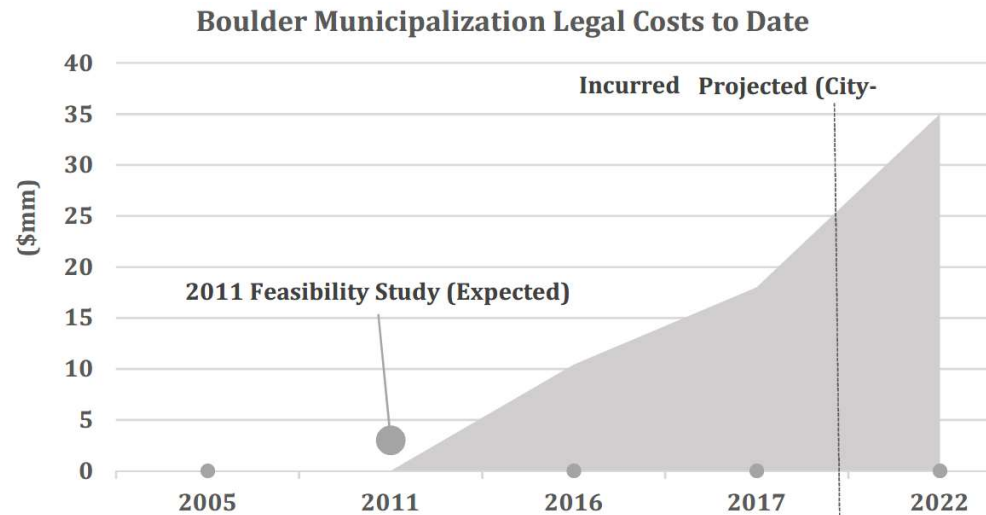
Eminent Domain Is Time-Consuming and Expensive

Five years in, Boulder's municipalization fight could be drawing to a close

The city's quest to form its own utility shows the opportunities and drawbacks of municipalization movements



<https://www.utilitydive.com/news/five-years-in-boulders-municipalization-fight-could-be-drawing-to-a-close/421709/>



Concentric Energy Advisors, *Emera Maine Municipalization Review* (Nov. 1, 2019)

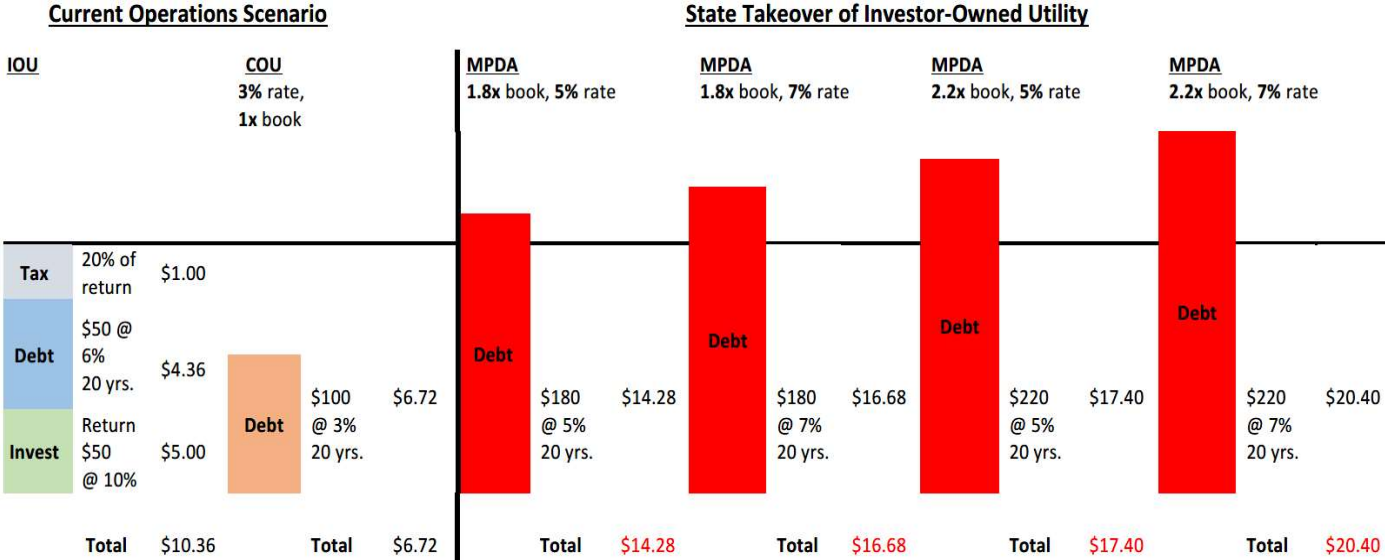
- Two small Maine water companies had 3+ years of litigation over eminent domain. CMP and Emera Maine would likely last much longer given their size and the complexity of the issues.
- Long Island Power took 13 years to form. Other takeovers took longer. Boulder started early in the prior decade, and was paused last year.
- Absent agreement, takeovers take many years.



What Does Public Ownership Mean?



Cost of Capital with State Authority



- Some small, consumer-owned utilities can borrow at 3%, but we should expect interest rates to be much higher in this case due to the greater risks associated with a state takeover:
 - Financing the entire cost of a utility for \$7-9 billion is far riskier than most utility financings.
 - These bonds are not backed by the State, which increases risk and requires higher rates.
 - Acquisition bonds are not tax-exempt, which requires a higher interest rate for investors.
 - These bonds are subject to state taxes if owned by out-of-state bondholders, which is likely given that Mainers themselves cannot solely finance \$7-9 billion in bonds.

Government-Owned Power and O&M Costs

- Lost economies of scale under government-owned power.
- Cost of bidding for and hiring a private contractor to operate the grid. Could add 5% to operating costs, which is the majority of what consumers pay in their electric distribution rates.
- New government agency formation and oversight costs would add to the cost of electric delivery rates in Maine.

Tax impacts if state-run authority created

State: Eliminates between \$35-40 million in contributions to the State's General Fund.

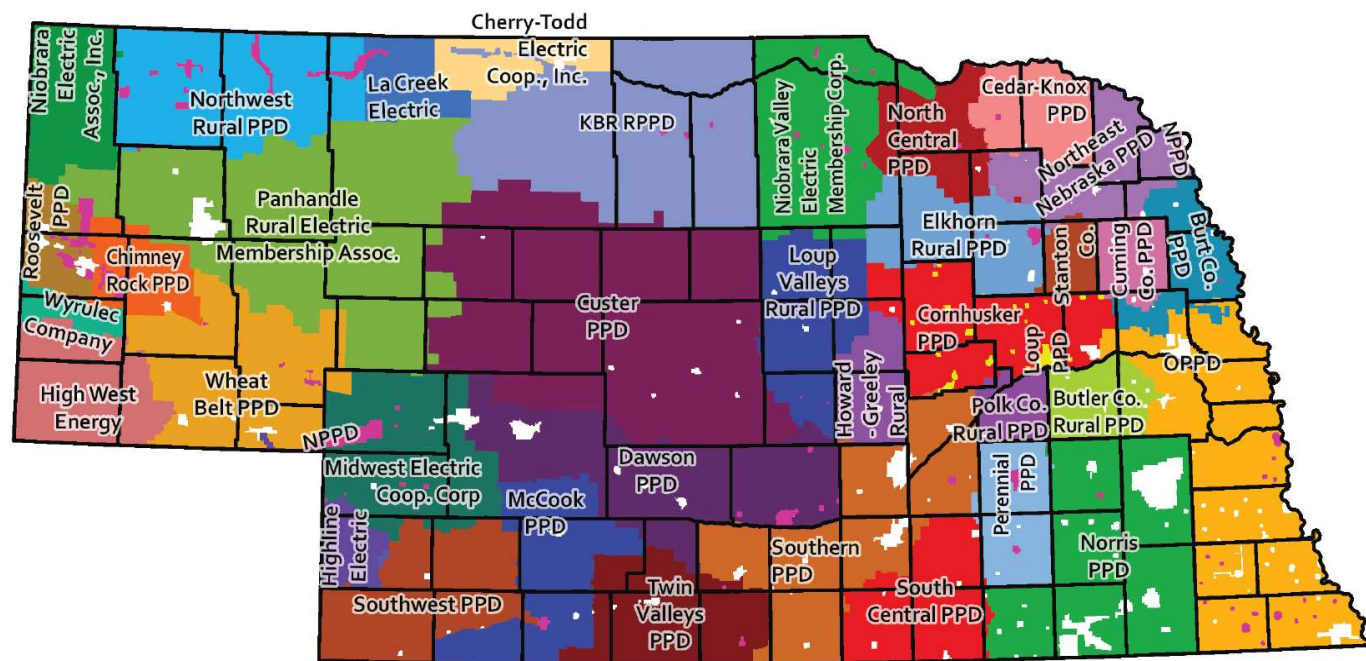
Local: Uncertainty regarding nearly \$70 million in local property taxes. CMP and Emera Maine are the state's two largest property taxpayers.



If these tax payments are reduced or eliminated, all other taxpayers in Maine will have to make up the difference.

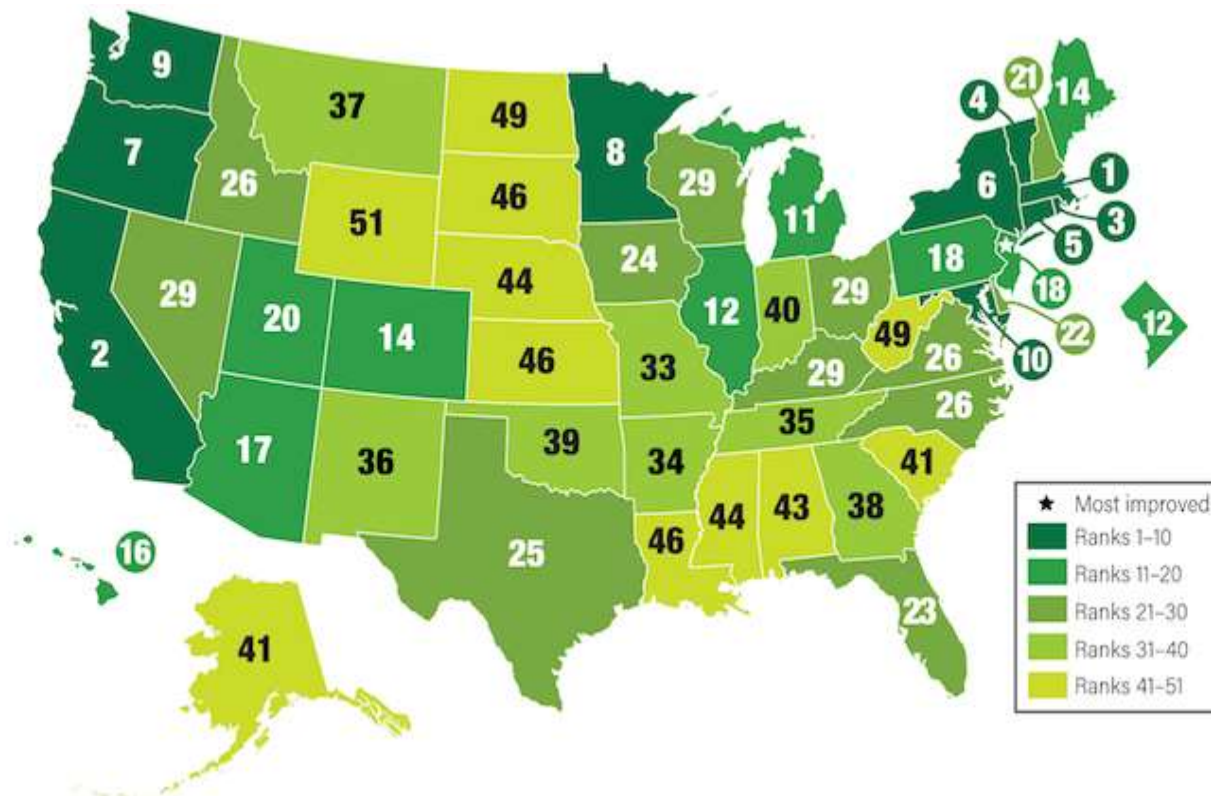
Nebraska: Case Study regarding Grid Investment and Climate Change

Nebraska Public Power Districts and Rural Electric Cooperatives 2017



https://nebraskalegislature.gov/pdf/reports/research/public_power_2018.pdf

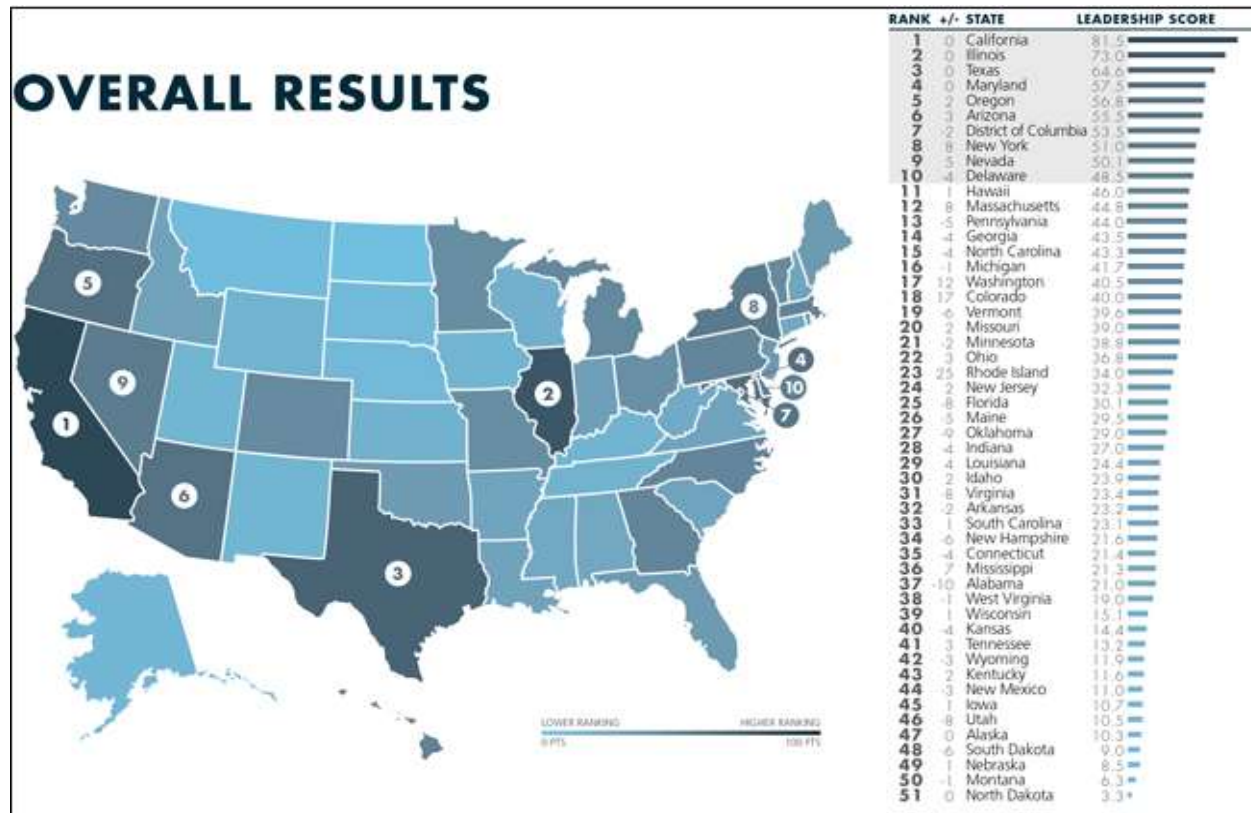
Energy Efficiency Among States



<https://aceee.org/sites/default/files/publications/researchreports/u1808.pdf>

Nebraska (public power) ranked 44th. Maine is ranked 14th.

Grid Modernization Among States



https://www.gridwise.org/resource-downloads/GWA_17_GMI4FinalReport11_8_17.pdf

Nebraska (public power) ranked third from bottom. Maine is in the middle of the pack.

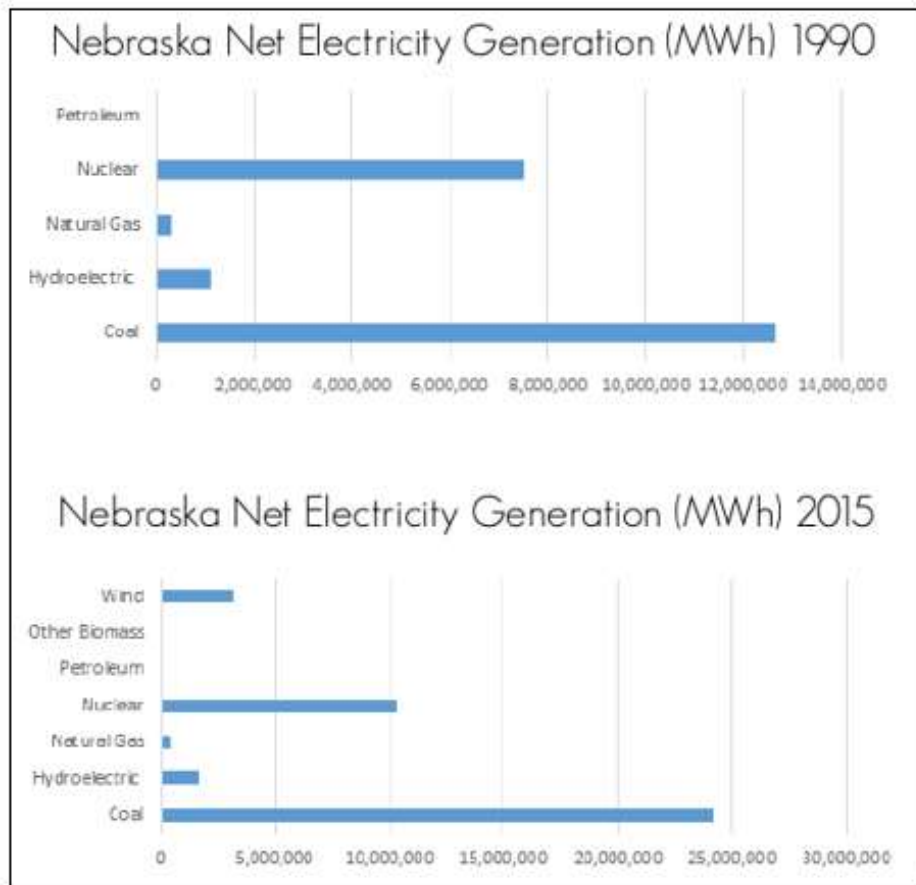
Meeting Climate Change Goals – Requires Investment

The “Hybrid” Grid requires sufficient poles and wires to get wind, solar, and hydro electricity to power “beneficial” uses of electricity, such as air-sourced heat pumps and electric vehicles.



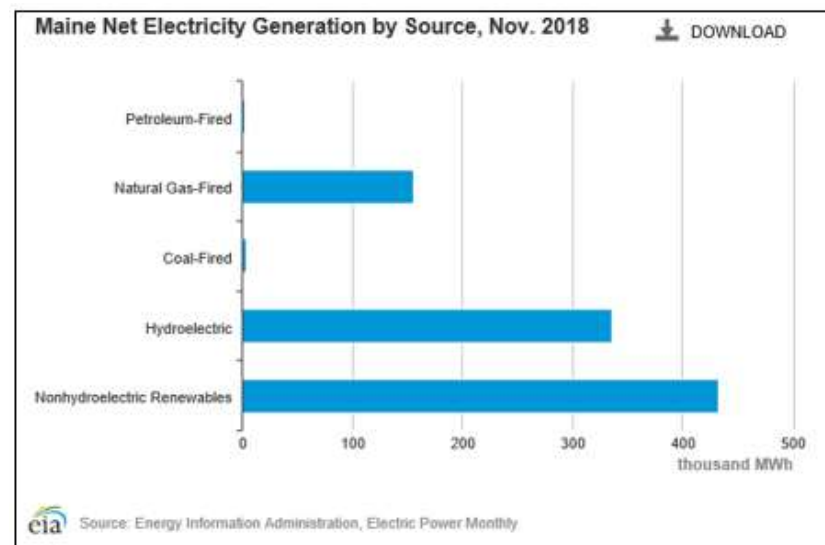
⁴⁰ ISO-New England, *Rapid Transformation of the New England Power System and Implications for the Region's Wholesale Electricity Markets*, (Apr. 26, 2019) (presented at the Maine Chamber of Commerce Energy Summit) (https://www.iso-ne.com/static-assets/documents/2019/04/maine_chamber_of_commerce_van_welie_2019_04_26_final.pdf).

Renewable Energy Comparison



https://nebraskalegislature.gov/pdf/reports/research/public_power_2018.pdf

Focus by elected officials on low rates is a driver of Nebraska's continued reliance on coal.



<https://www.eia.gov/state/?sid=ME#tabs-4>

Case Study: Boulder went backwards on clean energy



Lessons from Boulder's bad breakup

By Nathanael Johnson on Jan 19, 2018



"I guess I've become convinced that pursuing the muni does not help to move our clean energy goals forward. That's the first thing.

Second, it just takes so long. We need to be acting on climate change now. Our existential crisis is climate change, not utility business models. I'm fine with changing utility business models, but not if it delays climate action."

-- Former Boulder Mayor, Will Toor

Case Study: Long Island Power Authority Management Deficiencies

news12
LONG ISLAND

LIPA customers outraged over Moreland Commission report citing utility's 'astronomical' expenses

Monday, June 24, 2013 9:31 PM EDT

Critics and customers of LIPA are furious over a new report by a state panel that uncovered breathtaking waste and lack of oversight at the utility, whose customers pay some of the highest power rates in the country.

<http://longisland.news12.com/story/34749952/lipa-customers-outraged-over-moreland-commission-report-citing-utility-s-astronomical-expenses>

Top LIPA exec, trustee announce resignations



A [Long Island Power Authority](#) in Belle Harbor, Queens. (Nov. 12, 2012) Photo Credit: AP

By MARK HARRINGTON mark.harrington@newsday.com Updated November 26, 2012

<https://www.newsday.com/long-island/top-lipa-exec-trustee-announce-resignations-1.4262844>

The image features a dark gray background with a faint, stylized world map. In the top-left corner, there is a yellow rectangular box containing the word "Verrill" in a black, serif font. Centered on the map are the words "QUESTIONS?" and "THANK YOU!" in a white, bold, sans-serif font, stacked vertically.

Verrill

QUESTIONS?

THANK YOU!