

# HISTORIC OVERVIEW: NEVADA DEREGULATION 1990's

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PUBLIC UTILITIES COMMISSION OF NEVADA

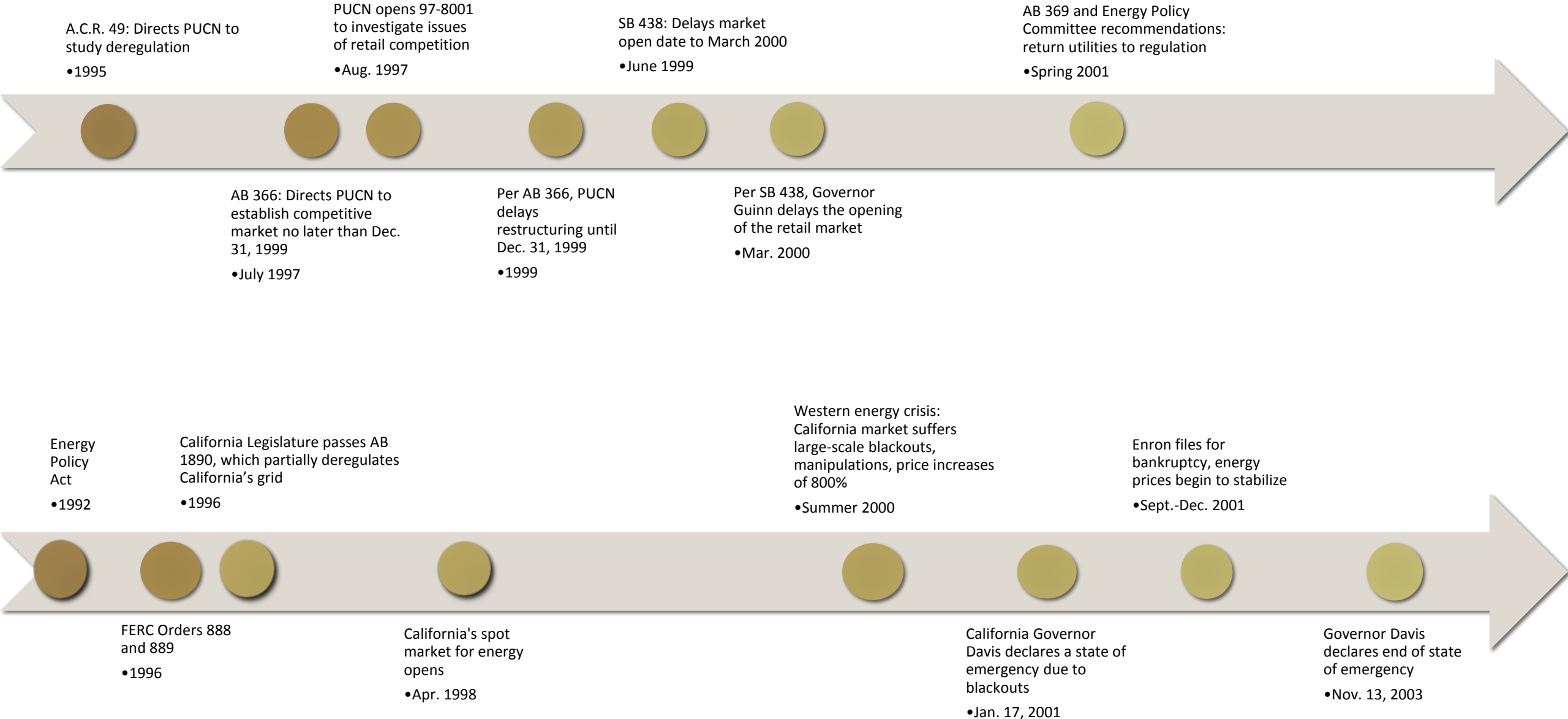
PRESENTATION TO THE GOVERNOR'S COMMITTEE ON ENERGY CHOICE

NOVEMBER 7, 2017

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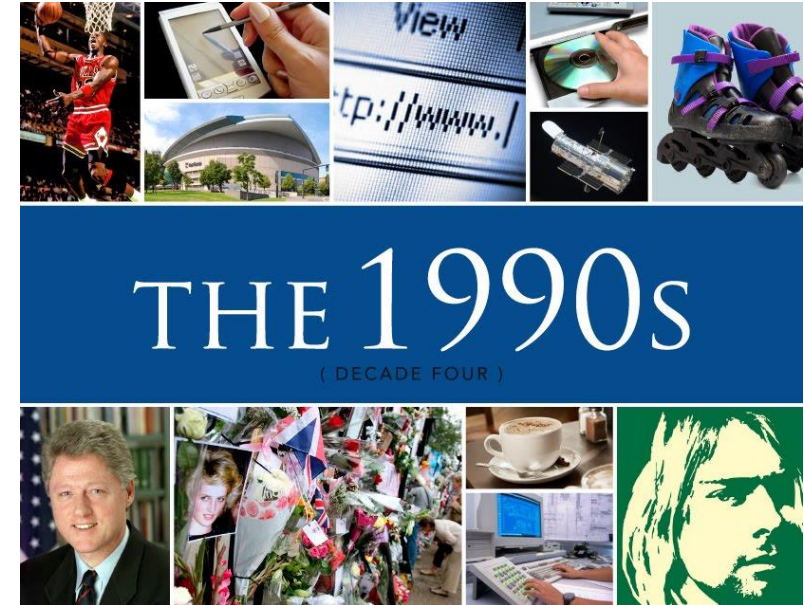
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# Nevada Timeline and National Timeline



# National Level: Trends Toward Competition

- Federal Power Act 1978
- Energy Policy Act of 1992
- FERC Orders 888 and 889:
  - Required utilities to unbundle their generation and transmission functions and provide open access to transmission facilities.
  - Encouraged the creation of Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs).



# State Level: A.C.R. 49 (1995)

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- The Legislature, noting the “nation-wide trend toward competition,” determined that it was “in the best interest of the residents of the State of Nevada to explore the effects of competition in the generation, sale, and transmission of electric energy so as to assess the economic consequences and opportunities associated with such competition.”
- Pursuant to A.C.R. 49, the Public Service Commission conducted an investigation and produced the report, The Structure of Nevada’s Electric Industry: Promoting the Public Interest
  - “The results of this investigation can be stated simply: If the Legislature chooses to authorize retail competition, it can be implemented in a manner which benefits Nevada. Implementation would be complicated, but achievable.”

# State Level: Bills and Regulations

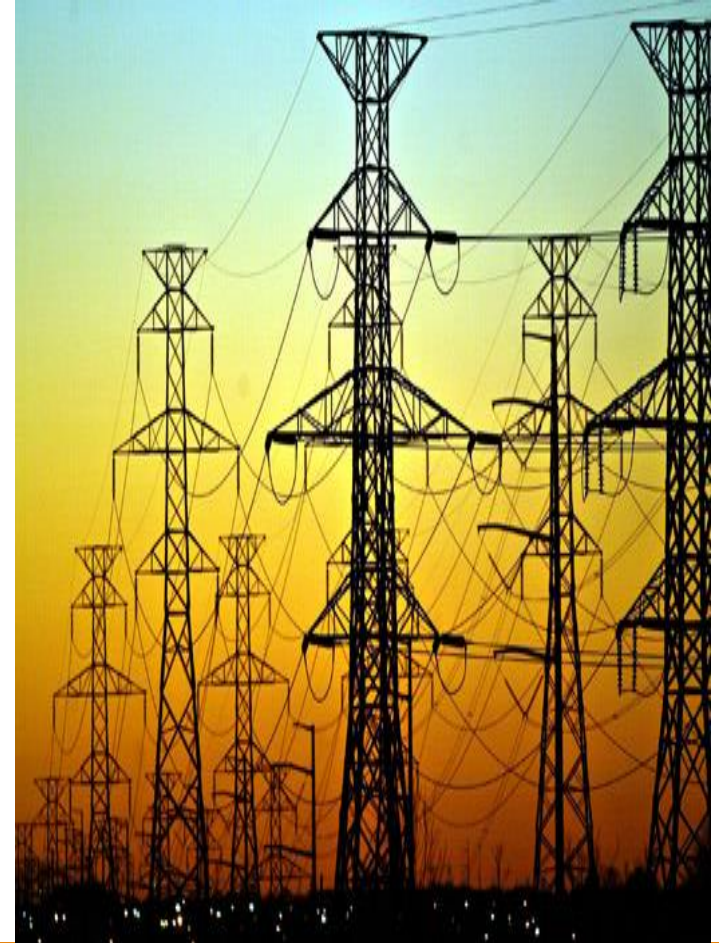
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- Assembly Bill 366 (1997)
  - Foundational piece of the restructuring legislature – Sections 28 through 57 of the Bill.
  - Retail access to commence no later than December 31, 1999: PUCN had the discretion to postpone.
- Senate Bill 438 (1999)
  - Amended portions of AB 366.
  - Expanded Provider of Last Resort provisions of AB 366.
  - Pushed back retail access commencement to March 1, 2000, and transferred the authority to further delay restructuring to the Governor, in consultation with PUCN.
- PUCN Docket No. 97-8001
  - Investigation into restructuring and unbundling of the electricity market.
  - A comprehensive core investigation and rulemaking that resulted in adoption of numerous restructuring regulations and initiated numerous other voluminous filings with PUCN.

# Key Elements of 1990s Deregulation Framework

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- Market Participants
- Market Design and Service Unbundling
- Transition to Competitive Market
- Provider of Last Resort
- Alternative Supplier Licensing
- Consumer Protections and Education
- Treatment of Non-Utilities
- Resource Planning and Portfolio Standard
- Wholesale Market



# Market Participants

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- Alternative Sellers – provide competitive services (AB 366, Sec. 30).
- Electric Distribution Utility – supply noncompetitive distribution and transmission services (AB 366, Sec. 33).
- Affiliates of an Electric Distribution Utility – act as Alternative Sellers (AB 366, Sec. 30) and can use NV Energy’s logos (SB 438, Sec. 20).
- The Public Utilities Commission of Nevada:
  - Licenses and regulates Alternative Sellers (AB 366, Sec. 40; Docket No. 97-8001)
  - Continues to fully regulate incumbent Electric Distribution Utilities (AB 366, Sec. 44)
  - Authorizes incumbent Utilities’ affiliates to provide competitive services (AB 366, Sec. 43)
  - Monitors and prevents market manipulation (AB 366, Sec. 42)
  - Determines what constitutes a competitive service (AB 366, Sec. 39(3)).

# Market Design and Unbundling

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- PUCN decides whether an electric service is competitive or noncompetitive (unsuitable for purchase from Alternative Sellers).
- A service is competitive if the provision of the service by Alternative Sellers:
  - Will not harm any class of customers;
  - Will decrease the cost of providing the service or increase the quality or innovation of the service to customers;
  - Is a service for which effective competition in the market is likely to develop;
  - Will advance the competitive position of this state; and
  - Will not otherwise jeopardize the safety and reliability of the electric service in this state (AB 366, Sec. 39).
- Competitive Services – generation and aggregation (AB 366, Sec. 39); metering, billing, and customer service (Docket No. 98-9038).
- Noncompetitive Services – transmission and distribution (if PUCN does not determine that a service is a competitive service, the Commission will deem the electric service to be a noncompetitive service).
- If the market for competitive service does not have effective competition, PUCN must by regulation establish the method for determining prices for the service (AB 366, Sec. 39(4)).



# Transition to Competitive Market

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- Divestiture:
  - PUCN has an obligation to:
    - Determine the recoverable costs associated with assets and obligations of the utilities that were allocable to a particular competitive service.
    - Compensate utilities' shareholders for all such costs.
  - PUCN has the authority to seek such recovery from the ratepayers (AB 366, Sec. 46).
  - PUCN has the authority to impose limitations on the ownership of generation assets to preclude exercise of market power (AB 366, Sec. 42).

# Transition to Competitive Market

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## Divestiture:

- Generation Divestiture Plan by NV Energy proposed to sell generation assets in bundles:
  - Bundle A (1,058 MW of capacity): Clark Units 1-10, Sunrise Units 1-2, Sun Peak.
  - Bundle B (605 MW of capacity): Reid Gardner Units 1-4.
  - Bundle C (72 MW of capacity): Harry Allen Unit 3
  - Bundle D (286 MW of capacity): North Valmy Units 1-2, Winnemucca, Battle Mt. Units 1-4
  - Bundle E (226 MW of capacity): Fort Churchill Units 1-2
  - Bundle F (560 MW of capacity): Tracy Units 1-3, Clark Mt. Units 1-4, Pinon Pine, Kings Beach, Portola, Valley Road.
- NV Energy signed contracts to sell generation for above the book value.
- These above the book value sale prices allowed to avoid stranded costs issues with regard to generation assets.
- These contracts were later set aside on the eve of the sales transactions when Nevada halted deregulation.

# Transition to Competitive Market

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- Power Purchase Agreements (PPA)
  - To recover PPA costs, NV Energy had to demonstrate that it had made efforts to reduce the costs of the obligations. No PUCN authority to modify or terminate PPAs (SB 438, Sec. 3).
  - The July 2000 Global Settlement yielded three PPA divestiture methods:
    - Permanent Auction to sell PPAs to take place within 2 months of the completion of the divestiture of 50% generation assets
    - Annual Auctions of leftover PPA energy and capacity on the wholesale markets; Permanent Auctions to repeat at least bi-annually
    - Purchased Power Agreement Adjustment Mechanism (PPAAM) to collect left-over PPA obligations:
      - Established a non-bypassable wires charge effective November 2000 for the collection of out of the money PPAs
      - The PPAAM rate was based on the over-market cost minus any mitigation from gains on sales of generation assets.
- No PPA divestiture occurred; the first PPAAM was proposed at \$0.00 in Docket No. 00-10002.

# Transition to Competitive Market

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Other steps necessary to competitive market transition:

- Identification of cost components of utility service (unbundling).
- Establishment of allocation methods necessary for later pricing of noncompetitive services.

# Provider of Last Resort (PLR)

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- The incumbent utility is the PLR (AB 366, Sec. 45; SB 438 Sec. 16).
- The incumbent utility must provide PLR services through an affiliate after July 1, 2001 (SB 438, Sec. 16).
- PLR Rate Caps:
  - Rates in effect on July 1, 1997, for 2 years after PUCN enacts regulations establishing PLR pricing (SB 366, Sec. 45) – 5.8 cents per kWh.
  - Rates in effect on July 1, 1999, for 3 years starting on March 1, 2000. Anything PLR undercollects can be recovered from the gain, if any, on its generation assets sales (SB 438, Sec. 4-5) – 6.3 cents per kWh.
- An Alternative Supplier can bid to become a partial or full PLR. It must offer to serve at least 10% of the load and agree to discount the PUCN-established rate by at least 5%.
- Auctions to determine which Alternative Supplier gets to serve as PLR.

# Alternative Supplier Licensing

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- PUCN grants licenses based on its analysis of applicant's safety and reliability of service, financial and operational fitness, and billing practices and customer service (AB 366, Sec. 40).
- PUCN may also consider applicant's prior anticompetitive behavior.
- Alternative Seller licensing fee is payable at the same rate as the rate used to assess public utilities for the use of PUCN and the BCP, based on gross revenues. (Docket No. 97-8001, R141-99).

# Consumer Protections/Education

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- Protections against unauthorized switch to another competitive service provider (AB 366, Sec. 48).
- Minimum standards for the form and content of all disclosures, explanations, and sales information.
- Establishes the Bureau of Consumer Protection (AB 366, Sec. 17).
- PUCN to expend up to \$500,000 on education and informational services (AB 366, Sec. 57).

# Treatment of Non-Investor Owned Utilities

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- Electrics cooperatives are exempt from restructuring (AB 366, Sec. 38).
- The Colorado River Commission (CRC) was allowed to remain vertically integrated (AB 366, Sec. 50).
- After restructuring, CRC could provide bundled services to new customers once it obtains an Alternative Supplier license.
- A local government or a small utility do not become subject to restructuring laws as long as they do not apply for an Alternative Supplier licensing or provide electric service (generation) outside of their traditional territory (AB 366, Sec. 40).



# Resource Planning

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- PUCN to develop regular forecasts of electric capacity and energy based on the information submitted by suppliers annually (AB 366, Sec. 51(1), (3)).
- If PUCN determines that sufficient capacity will not be available, PUCN has broad authority to establish equitable obligations for customers, utilities, or Alternative Sellers to ensure sufficient capacity (AB 366, Sec. 51(2)).
- RPS equal to 0.2% and rising to 1% is established (AB 366, Sec. 52).

# State and Federal Level: Nevada Independent System Administrator

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- Stakeholder process, with the following guiding principles:
  - Interim organization, meant to last until Nevada could establish a regional transmission organization in 3-5 years. Desert STAR, a southwest independent system operator, was supposed to take over from Mountain West 1999.
  - Non-profit, membership-based organization, defined by bylaws with sunsets provisioned in the articles of incorporation.
  - The governing structure was proposed as seven member classes, with small load customers, large customers, generators, load-serving entities, transmission dependent utilities, transmission owners, and an ex officio PUCN member. The advisory committee would contain two representatives per class.
  - Independent board of five selected by a search firm.

# State and Federal Level: Nevada Independent System Administrator

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“Today, all implementation activities [of Mountain West] are on hold until the funding mechanism issue is resolved.”

-Rosalie Day, First Chairman of the Board, Mountain West



# State Level: Global Settlement (Jul. 2000)

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- Changed market open date to November 1, 2000
- Approved monthly fuel and purchased power riders effective August 1, 2000, until March 2003
- Approved recovery of \$15 million of deferred energy account adjustment rates

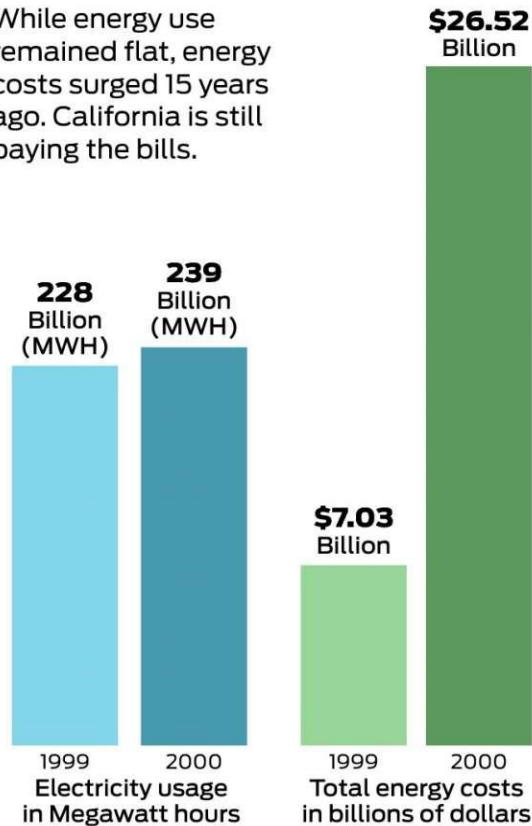
# National Level: Western Energy Crisis



Endless possibilities.™

## A \$20 billion hit

While energy use remained flat, energy costs surged 15 years ago. California is still paying the bills.



Source: California Independent System Operator

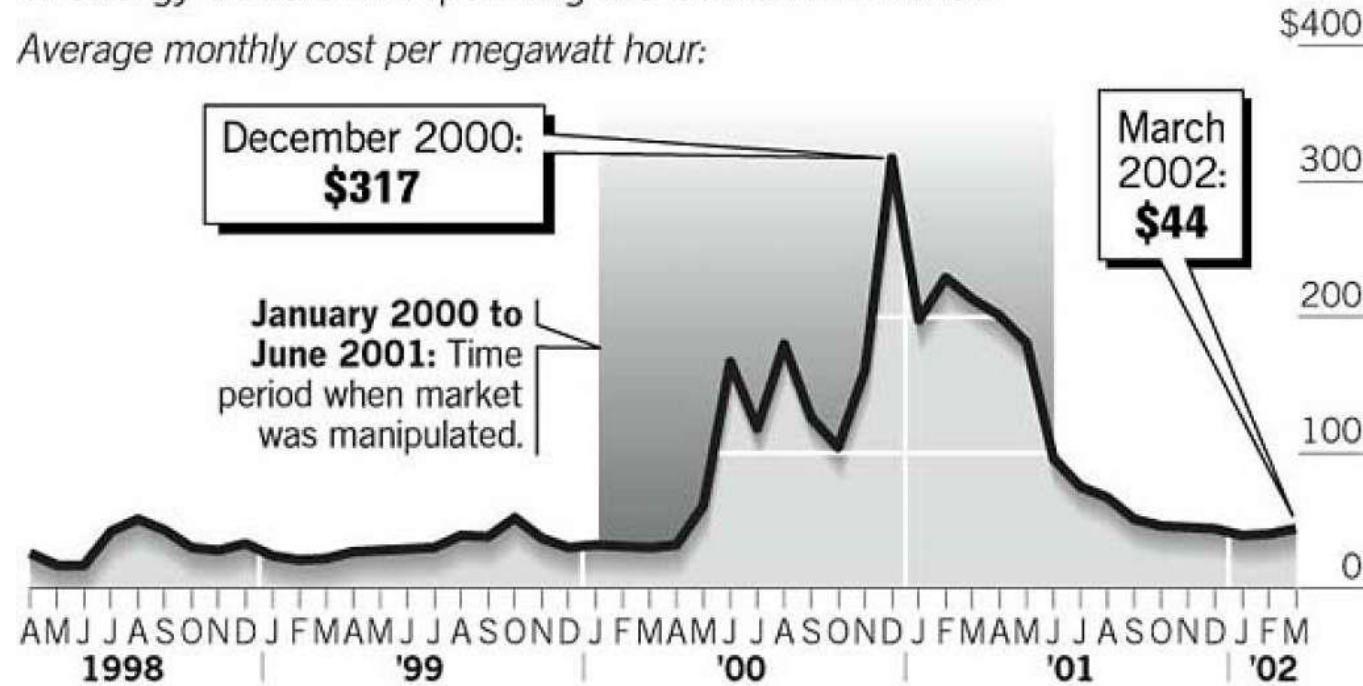
John Blanchard / The Chronicle



## The California energy crisis

The monthly wholesale price for electricity shows in part the effects of energy traders manipulating the California market.

Average monthly cost per megawatt hour:



Source: California Independent System Operator

Chronicle Graphic

# State Level: Nevada Electric Energy Policy Committee and Nevada Energy Protection Plan

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Governor Kenny Guinn announced the delay of opening the electricity market in Nevada until no later than September 1, 2001. The Governor appointed a bipartisan panel to develop a long-term strategy and report its findings. On January 11, 2001, the Nevada Electric Energy Policy Committee submitted a report to Governor Guinn recommending, among other things, that only large commercial customers be allowed retail choice until electricity market prices stabilized in the West.

On February 22, 2001, as a result of the findings from the Nevada Electric Energy Policy Committee, Governor Guinn announced the Nevada Energy Protection Plan, which contained a wide-ranging conservation strategy, a re-examination of utility divestiture, a plan to accelerate the construction of new power plants, the construction of a new transmission line. The overall strategy also included an indefinite halt to electric utility deregulation.

# An end to Nevada Deregulation: AB369 and AB 661 (2001)

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## VERTICALLY INTEGRATED UTILITY

- AB 369 and AB 661 returned electric utilities back to vertically-integrated, regulated utilities.

