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# **Public Utility Regulation Without the Public: The Alabama Public Service Commission and Alabama Power**

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**Coal Finance 2013**

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**THE INSTITUTE FOR  
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& FINANCIAL ANALYSIS**

- **There has not been a publicly contested rate increase case for Alabama Power since 1982.**
- **The PSC eliminated public evidentiary hearings because it said the hearings were too lengthy and expensive.**
- **Established formula Rate Stabilization and Equalization Mechanism (Rate RSE).**
  - **Company is guaranteed a return on equity of between 13.0 and 14.5 percent.**
  - **Each December 1<sup>st</sup> Company files for rates for next year. PSC decision by mid-January.**
  - **Commission holds one informal meeting that the public can attend and ask questions but Company's not under oath – that's it for public participation.**
  - **No public review of prudence of Company expenditures.**

- **PSC also adopted Rate Certified New Plant Mechanism in 1982 (Rate CNP).**
- **Also no public evidentiary hearings.**
- **Annual filing is reviewed by staff.**
- **No public review of prudence of expenditures on new plant or environmental compliance costs at existing plants.**
- **Like Rate RSE, Rate CNP review is opaque. No public participation.**

# IRP and Energy Efficiency in Alabama

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- **Alabama Power prepares an Integrated Resource Plan but has refused to release a public version.**
- **Unlike many other states, there is no public IRP process in Alabama that would provide any evidence that the environmental compliance projects and costs for which Company is seeking recovery are reasonable or prudent or represent the lowest practicable long-term option for ratepayers.**



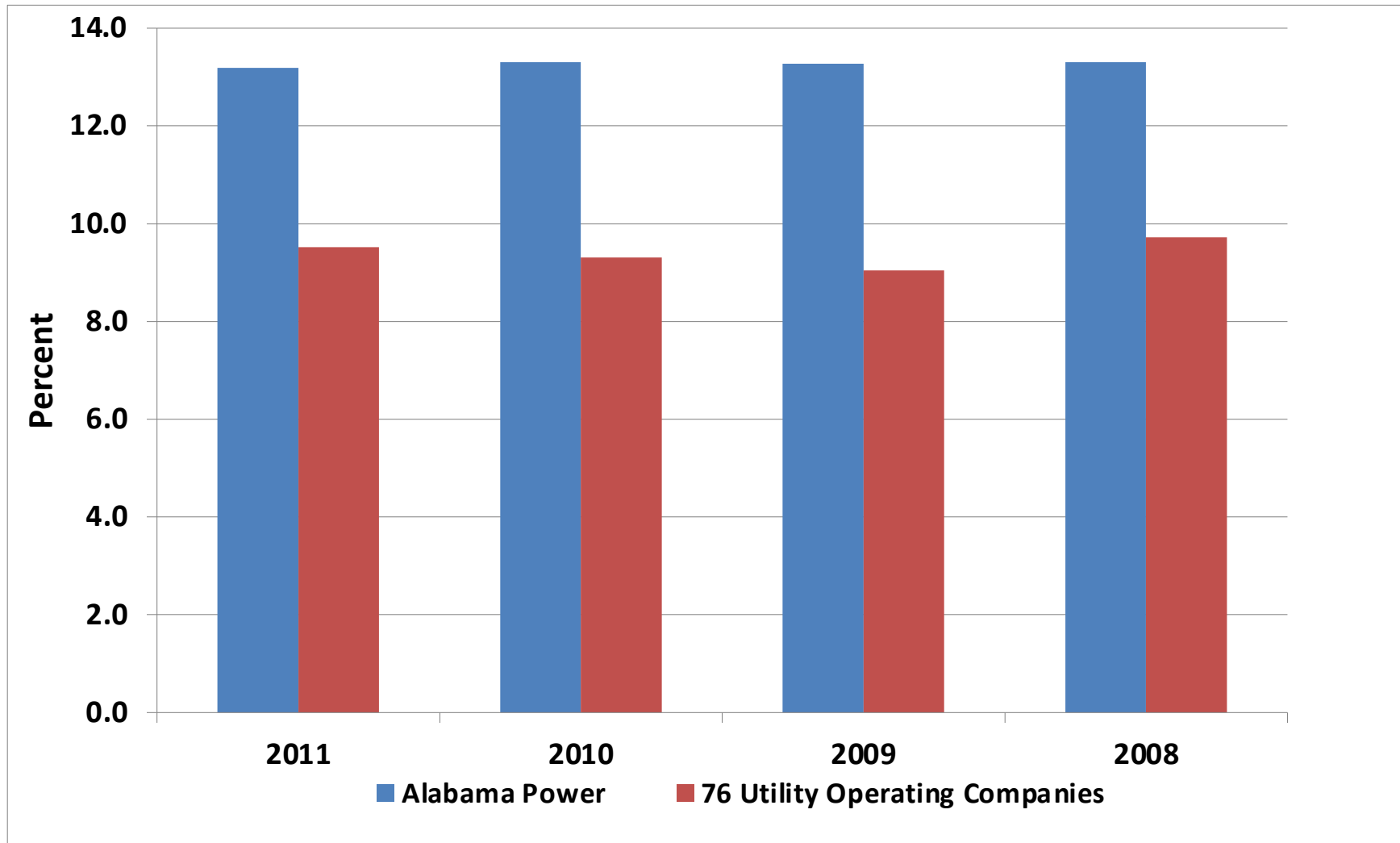
# PSC Commissioner George Wallace, Jr.

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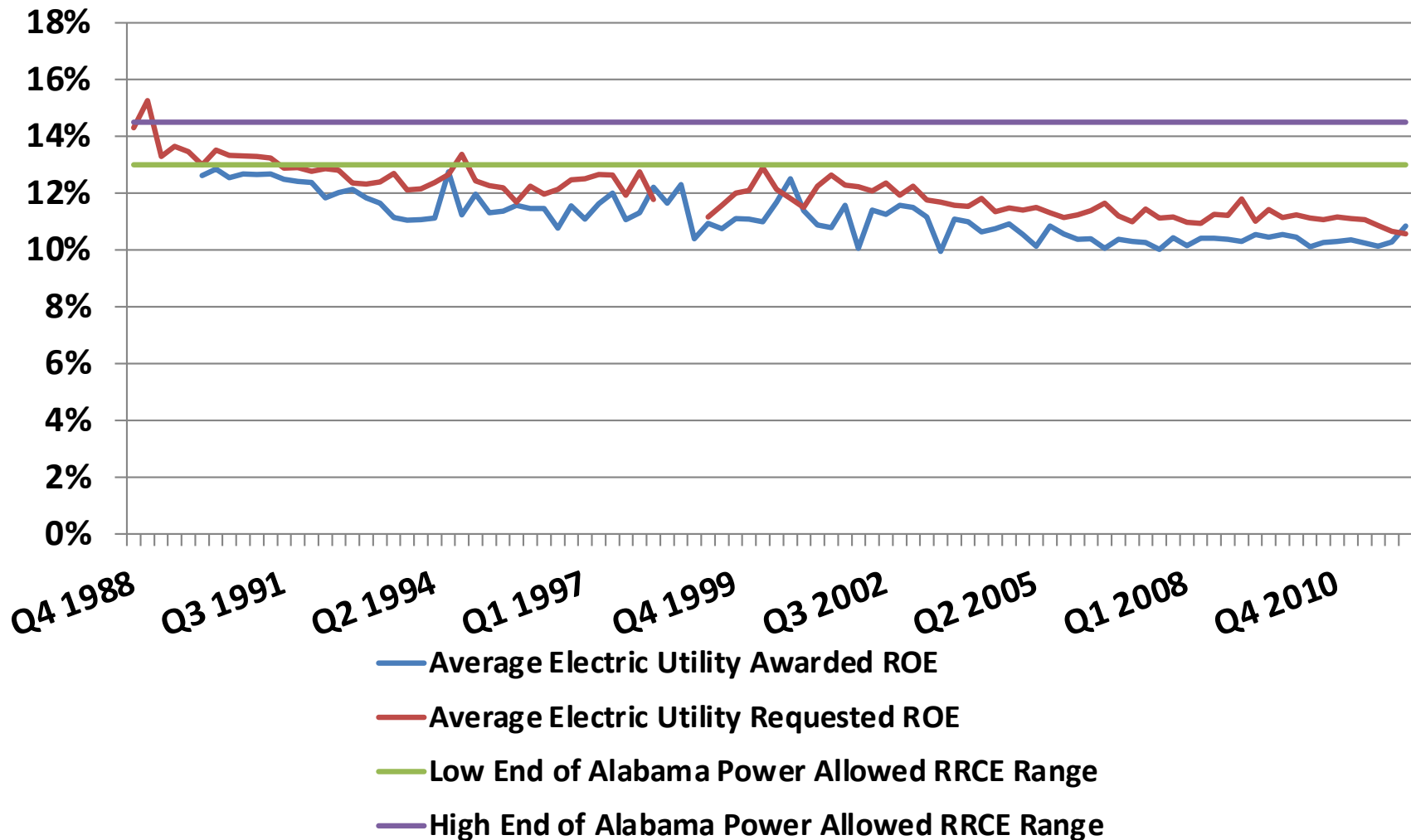
- **Wrote in a dissenting opinion when the PSC decided in 2004 to expand rate CNP to include environmental compliance costs:**
  - **“It is my firm believe that all decisions of this Commission should be made with full consideration of the balance between the financial burden to Alabama consumer ratepayers and a fair and reasonable rate of return to the regulated utility. The majority decision of the Commission shifts Alabama Power Company’s entire burden of paying for environmental compliance to the consumers of Alabama.”**
  - **“By ordering these costs to be recovered under Rate CNP on an annual basis, without formal evidentiary hearings in future years, the majority order has shifted the entire burden of these costs to the customers of Alabama Power Company whose rates will increase in each of the next nine years.”**



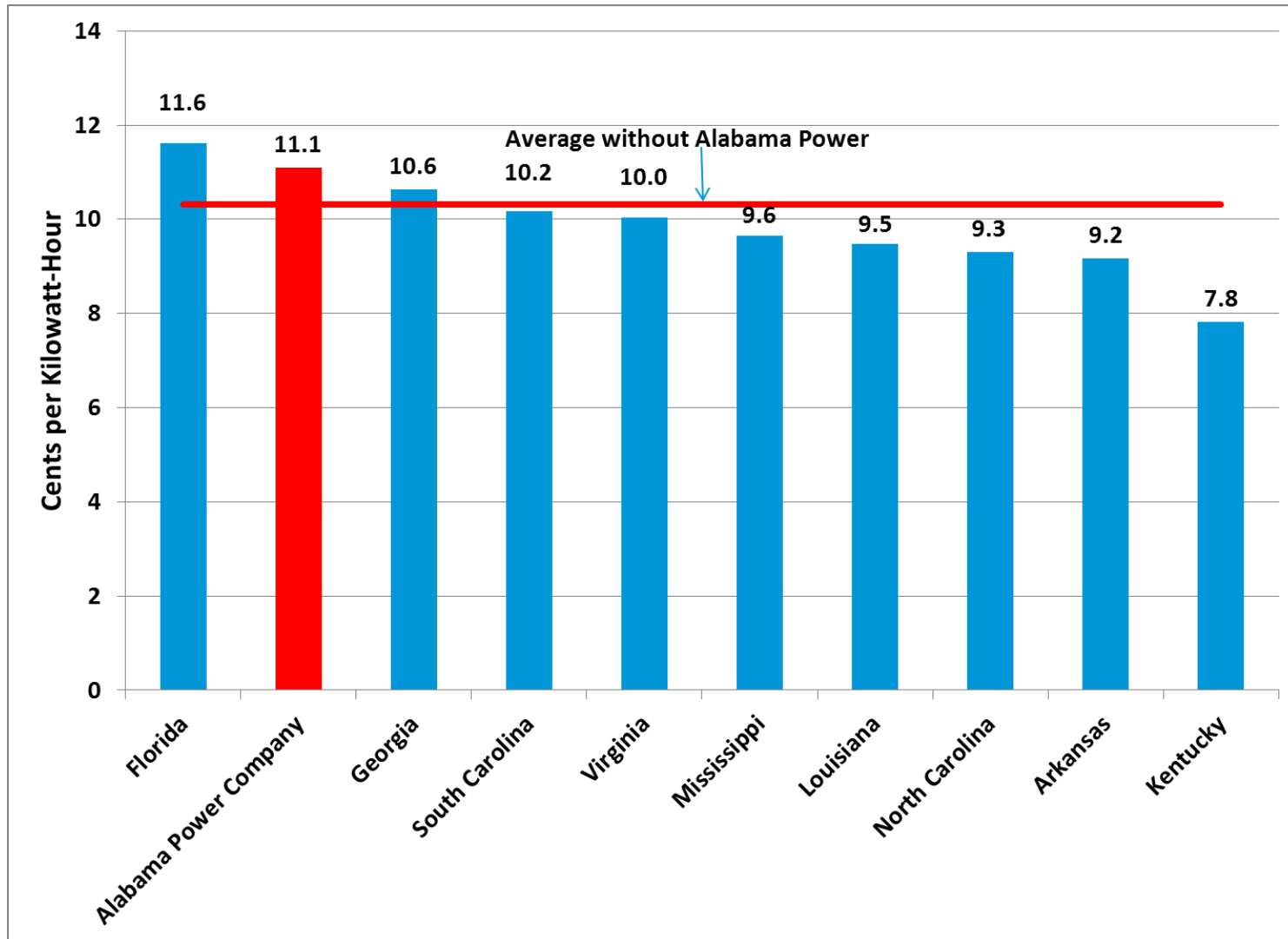
# Earned Returns on Equity for 2008-2011



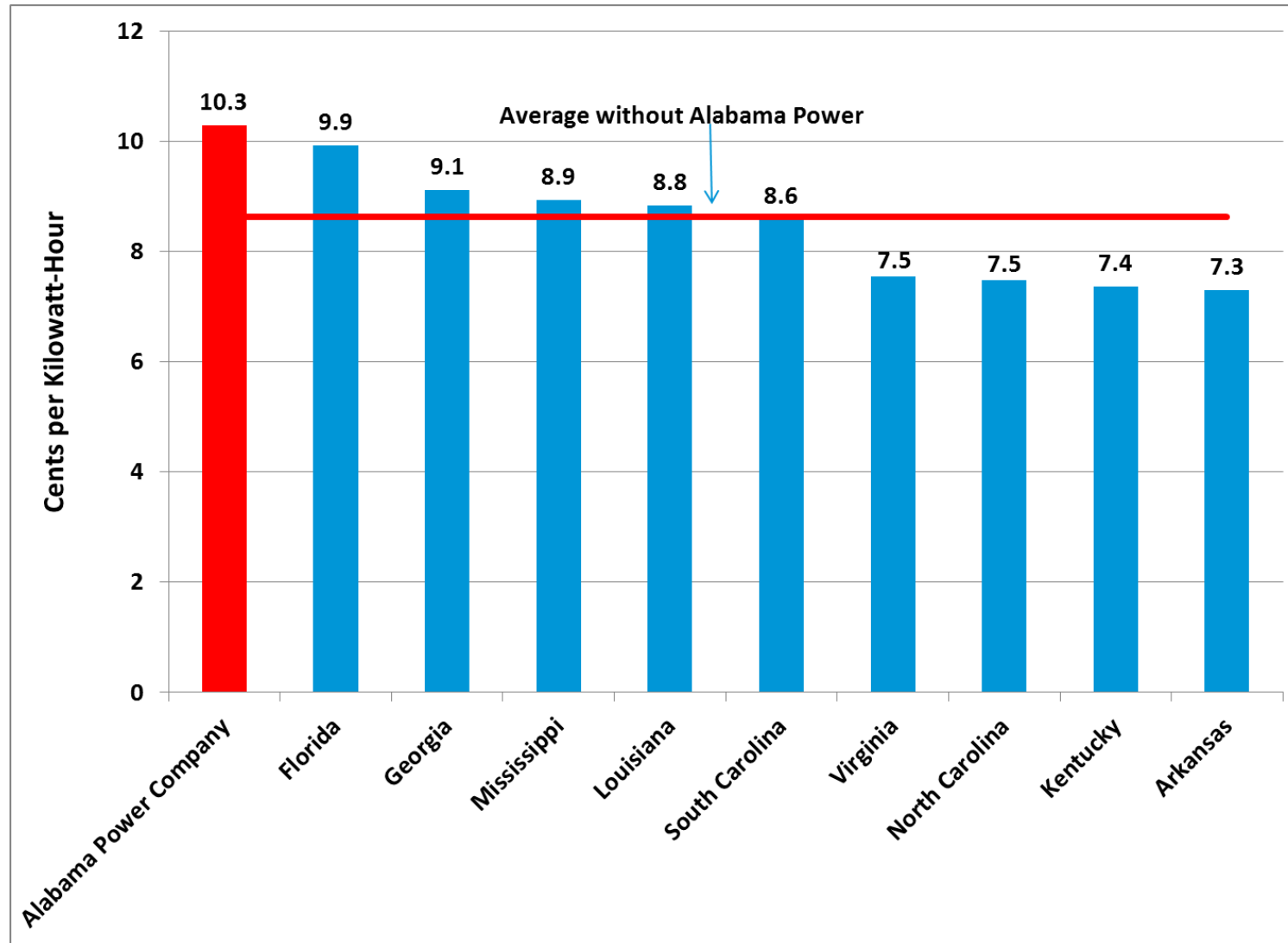
# Average Electric Utility Requested and Earned Returns on Common Equity



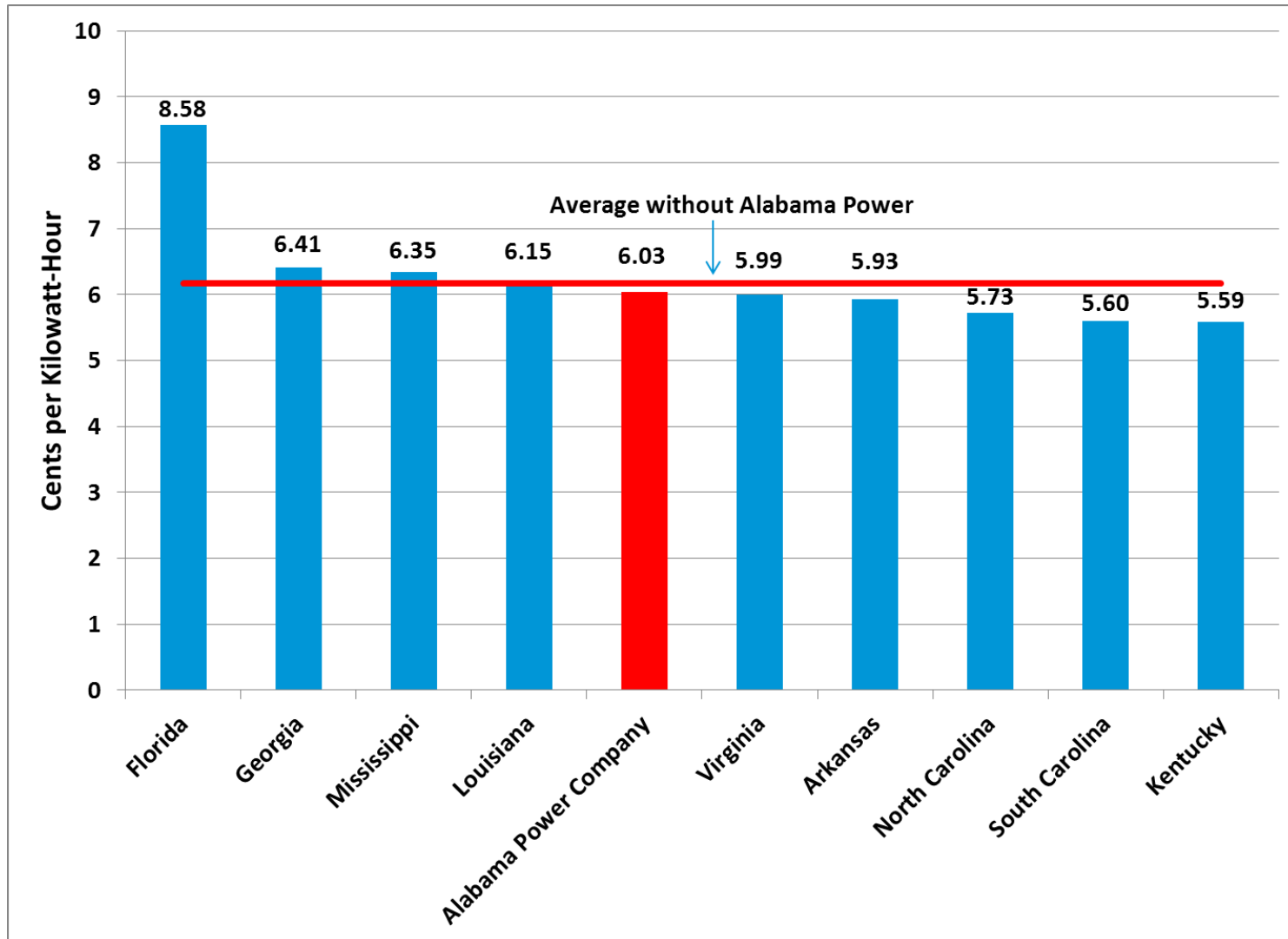
# Average Price per KWh – Residential Customers



# Average Price per KWh – Commercial Customers



# Average Price per KWh – Industrial Customers



# The Commission's Response

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- **In the fall of 2012 before I began to write our report, I called the PSC staff twice to ask some questions about Rate RSE and then filed an e-mail request for some documents.**
- **A relatively small group of environmentalists attended the December public meeting on Alabama Power's Rate RSE request for 2013.**
- **In response one of the three Commissioners (all Republicans) made a motion that the PSC hold formal hearings on Alabama Power's allowed 13.0% – 14.5% return on common equity.**
- **The media picked up the issue.**
- **Then things got really crazy. And this was all before our report was released**



- **On January 17 Chairperson of the PSC, Twinkle Andress Cavanaugh released a letter on PSC letterhead titled “Environmental Extremists Push for Formal Hearings to Kill Coal Jobs and Increase Utility Rates”**

**“Several newspaper stories have been written lately about calls for formal hearings to review rates being charged by many of the utilities that the Public Service Commission regulates, but like so much of what happens in Montgomery, what appears to be occurring actually camouflages dangerous ulterior motives by hidden special interests.**

**I am referring to environmental extremist groups that have recently stepped up their activities within our state. Their agenda-driven actions threaten to raise the rates you pay for electricity and other utilities, and they harm our ability to remain competitive with other states while creating new jobs and opportunities for our citizens.**

## Twinkle's Letter (2)

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**These environmental extremists have waged a full frontal attack on coal-based energy production, which happens to comprise a large portion of production in Alabama and directly provides more than 5,000 jobs across our state....**

**These environmental groups will use any tool at their disposal, including biased media reports, sleight of hand misdirection and other sideshow issues and antics in order to achieve their goals. Because conservative states like Alabama have proven hostile to the liberal environmentalists' cause, they are now hiding behind a curtain like the Wizard of Oz while personally directing the push for formal PSC hearings to investigate the finances of the state's utilities.**

**Groups like the Southern Environmental Law Center and the Alabama Environmental Council, who, quite frankly, could not care less about whether the rates you pay are too high, have been driving this effort from its first day.**

**They hope that once formal hearings, which do not allow for public input, are convened, they can trot out their fancy San Francisco environmental lawyers and junk science hucksters to make what amounts to a legal judicial case against coal production within our borders....”**

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## The Call for Formal Hearings Suffered a Quick But Painful Death

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- **The Commissioner who proposed that the PSC hold formal evidentiary hearings on utility rates was labeled a “tree hugger,” a “radical environmentalist” and “a conspirator in a plot to kill coal mining.”**
- **He was denied access to the state house during the Governor’s State of the State speech and, according to a state newspaper, was told by the Speaker of the House that he was “taking his job too seriously.”**
- **The PSC voted 2 to 1 not to hold formal hearings but, instead, to hold informal meetings around the state.**
- **A newspaper revealed that Twinkle received \$88,902 for her PSC campaign from coal mining companies and PACs.**
- **Our report was finally released on March 1<sup>st</sup>.**



# Ultimate Conclusions of Our Report

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- **All three of the regulatory processes we have investigated (Rate RSE, Rate CNP and IRP) lack any public participation, true accountability and transparency.**
- **The Commission's isolation leads to secretive pro-utility decisions that fail to balance the interests of shareholders and ratepayers.**
- **As a monopoly, Alabama Power has enjoyed this process since 1982 and seems perfectly happy to keep it in place.**
- **The current regulatory system in Alabama is unfair to customers, is no longer needed, unjustifiably rewards the company and is costly to the citizens of the state.**
- **The PSC should investigate moving back to more traditional ratemaking with periodic rate cases and public involvement in the rate-setting process.**