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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

2013 AUG 30 P 4: 24

AZ CORP COMMISSION  
DOCKET CONTROL

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IN THE MATTER OF THE APPLICATION OF  
VALENCIA WATER COMPANY – TOWN DIVISION  
FOR THE ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES FOR UTILITY  
SERVICE DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE OF ARIZONA

Docket No. W-01212A-12-0309

IN THE MATTER OF THE APPLICATION OF  
GLOBAL WATER – PALO VERDE UTILITIES  
COMPANY FOR THE ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES FOR UTILITY  
SERVICE DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. SW-20445A-12-0310

IN THE MATTER OF THE APPLICATION OF WATER  
UTILITY OF NORTHERN SCOTTSDALE, INC. FOR A  
RATE INCREASE

Docket Nos. W-03720A-12-0311

IN THE MATTER OF THE APPLICATION OF  
WATER UTILITY OF GREATER TONOPAH FOR  
THE ESTABLISHMENT OF JUST AND REASONABLE  
RATES AND CHARGES FOR UTILITY SERVICE  
DESIGNED TO REALIZE A REASONABLE RATE OF  
RETURN ON THE FAIR VALUE OF ITS PROPERTY  
THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-02450A-12-0312

IN THE MATTER OF THE APPLICATION OF  
VALENCIA WATER COMPANY – GREATER  
BUCKEYE DIVISION FOR THE ESTABLISHMENT OF  
JUST AND REASONABLE RATES AND CHARGES FOR  
UTILITY SERVICE DESIGNED TO REALIZE A  
REASONABLE RATE OF RETURN ON THE FAIR  
VALUE OF ITS PROPERTY THROUGHOUT THE  
STATE OF ARIZONA

DOCKET NO. W-02451A-12-0313

**NOTICE OF FILING  
REBUTTAL TESTIMONY  
REGARDING SETTLEMENT  
AGREEMENT**

1 IN THE MATTER OF THE APPLICATION OF  
2 GLOBAL WATER – SANTA CRUZ WATER COMPANY  
3 FOR THE ESTABLISHMENT OF JUST AND  
4 REASONABLE RATES AND CHARGES FOR UTILITY  
5 SERVICE DESIGNED TO REALIZE A REASONABLE  
6 RATE OF RETURN ON THE FAIR VALUE OF ITS  
7 PROPERTY THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-20446A-12-0314

5 IN THE MATTER OF THE APPLICATION OF  
6 WILLOW VALLEY WATER COMPANY FOR THE  
7 ESTABLISHMENT OF JUST AND REASONABLE  
8 RATES AND CHARGES FOR UTILITY SERVICE  
9 DESIGNED TO REALIZE A REASONABLE RATE OF  
10 RETURN ON THE FAIR VALUE OF ITS PROPERTY  
11 THROUGHOUT THE STATE OF ARIZONA

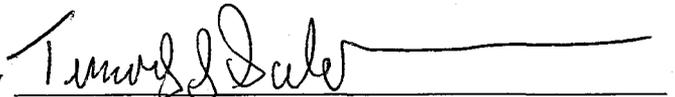
DOCKET NO. W-01732A-12-0315

**NOTICE OF FILING  
REBUTTAL TESTIMONY  
REGARDING SETTLEMENT  
AGREEMENT**

10  
11 Global Water – Palo Verde Utilities Company, Global Water – Santa Cruz Water  
12 Company, Valencia Water Company – Town Division, Valencia Water Company – Greater  
13 Buckeye Division, Water Utility of Greater Tonopah, Willow Valley Water Co. and Water Utility  
14 of Northern Scottsdale (collectively, the “Global Utilities”) and Global Water Resources, Inc.,  
15 Hassayampa Utility Company, Inc., Global Water – Picacho Cove Utilities Company and Global  
16 Water – Picacho Cove Water Company (collectively, the “Global Intervenors”, and with the  
17 Global Utilities, “Global”) provide notice of filing the attached rebuttal testimony of Ron Fleming,  
18 Matthew J. Rowell and Paul Walker in support of the Settlement Agreement.

19 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of August, 2013.

20 ROSHKA DEWULF & PATTEN, PLC

21  
22 By 

23 Michael W. Patten  
24 Timothy J. Sabo  
25 One Arizona Center  
26 400 East Van Buren Street, Suite 800  
27 Phoenix, Arizona 85004

*Attorneys for Global Utilities*

1 Original +13 copies of the foregoing  
filed this 30<sup>th</sup> day of August 2013, with:

2 Docket Control  
3 Arizona Corporation Commission  
4 1200 West Washington  
Phoenix, AZ 85007

5 Copies of the foregoing hand-delivered/mailed  
this 30<sup>th</sup> day of August 2013 to:

6 Dwight D. Nodes, Esq.  
7 Assistant Chief Administrative Law Judge  
8 Hearing Division  
9 Arizona Corporation Commission  
10 1200 West Washington  
Phoenix, AZ 85007

Lawrence V. Robertson, Jr., Esq.  
Of Counsel, Munger Chadwick  
P.O. Box 1448  
Tubac, Arizona 85646  
Attorney for the City of Maricopa

11 Janice Alward, Esq.  
12 Chief Counsel, Legal Division  
13 Arizona Corporation Commission  
14 1200 West Washington  
Phoenix, AZ 85007

Denis M. Fitzbibbons, Esq.  
Fitzbibbons Law Offices, P.L.C.  
1115 E. Cottonwood Lane, Suite 150  
Casa Grande, AZ 85122  
Attorney for the City of Maricopa

15 Steven M. Olea  
16 Director, Utilities Division  
17 Arizona Corporation Commission  
18 1200 West Washington  
Phoenix, AZ 85007

Willow Valley Club Association  
c/o Gary McDonald, Chairman  
1240 Avalon Avenue  
Havasu City, AZ 86404

19 Garry D. Hays, Esq.  
20 The Law Offices of Garry D. Hays, PC  
21 1702 East Highland Avenue, Suite 204  
22 Phoenix, AZ 85016

Steven P. Tardiff  
44840 W. Paitilla Lane  
Maricopa, AZ 85139

23 Jeffrey W. Crockett, Esq.  
24 Brownstein Hyatt Farber Schreck, LLP  
25 One East Washington Street, Suite 2400  
26 Phoenix, Arizona 85004

Andy and Marilyn Mausser  
20828 North Madison Drive  
Maricopa, AZ 85138

27 Daniel W. Pozefsky, Esq.  
Chief Counsel  
Residential Utility Consumer Office  
1110 West Washington Street, Suite 200  
Phoenix, Arizona 85007

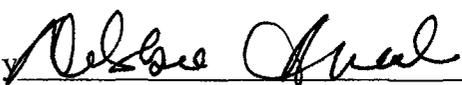
Robert J. Metli, Esq.  
Munger Chadwick, PLC  
2398 E. Camelback Road, Suite 240  
Phoenix, Arizona 85016

Barry W. Becker  
Bryan O'Reilly  
SNR Management, LLC  
50 S. Jones Blvd., Suite 101  
Las Vegas, Nevada 89107

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Michele Van Quathem, Esq.  
Ryley Carlock & Applewhite  
One North Central Avenue, Suite 1200  
Phoenix, AZ 85004-4417

William P. Sullivan, Esq.  
Curtis, Goodwin, Sullivan, Udall & Schwab  
501 East Thomas Road  
Phoenix, AZ 85012-3205  
Attorney for the Willow Valley Club  
Association

By 

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 BOB STUMP, Chairman

4 GARY PIERCE

5 BRENDA BURNS

6 BOB BURNS

7 SUSAN BITTER SMITH

8 IN THE MATTER OF THE APPLICATION OF  
9 VALENCIA WATER COMPANY – TOWN DIVISION  
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12 SERVICE DESIGNED TO REALIZE A REASONABLE  
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THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-02450A-12-0312

28 IN THE MATTER OF THE APPLICATION OF  
29 VALENCIA WATER COMPANY – GREATER  
30 BUCKEYE DIVISION FOR THE ESTABLISHMENT OF  
31 JUST AND REASONABLE RATES AND CHARGES FOR  
32 UTILITY SERVICE DESIGNED TO REALIZE A  
33 REASONABLE RATE OF RETURN ON THE FAIR  
34 VALUE OF ITS PROPERTY THROUGHOUT THE  
35 STATE OF ARIZONA

DOCKET NO. W-02451A-12-0313

**REBUTTAL TESTIMONY OF  
RON FLEMING REGARDING  
SETTLEMENT AGREEMENT**

1 IN THE MATTER OF THE APPLICATION OF  
2 GLOBAL WATER – SANTA CRUZ WATER COMPANY  
3 FOR THE ESTABLISHMENT OF JUST AND  
4 REASONABLE RATES AND CHARGES FOR UTILITY  
5 SERVICE DESIGNED TO REALIZE A REASONABLE  
6 RATE OF RETURN ON THE FAIR VALUE OF ITS  
7 PROPERTY THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-20446A-12-0314

5 IN THE MATTER OF THE APPLICATION OF  
6 WILLOW VALLEY WATER COMPANY FOR THE  
7 ESTABLISHMENT OF JUST AND REASONABLE  
8 RATES AND CHARGES FOR UTILITY SERVICE  
9 DESIGNED TO REALIZE A REASONABLE RATE OF  
10 RETURN ON THE FAIR VALUE OF ITS PROPERTY  
11 THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-1732A-12-0315

**REBUTTAL TESTIMONY OF  
RON FLEMING REGARDING  
SETTLEMENT AGREEMENT**

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Rebuttal Testimony  
of  
Ron Fleming  
In Support of Settlement Agreement  
August 30, 2013

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## TABLE OF CONTENTS

I.	Introduction.....	1
II.	SNR and NWP had other choices .....	2
III.	CPI Issue .....	4
IV.	Alleged competitive disadvantage.....	5
V.	Financial issues .....	7

1 **I. Introduction.**

2 **Q. Please state your name and business address.**

3 A. My name is Ron Fleming.

4

5 **Q. Are you the same Ron Fleming that provided Direct Testimony on July 9, 2012 and**  
6 **Testimony in Support of the Settlement Agreement on August 30, 2013?**

7 A. Yes.

8

9 **Q. What is the purpose of this testimony?**

10 A. To respond to certain points made by New World Properties, Inc. (NWP) witness Richard  
11 Jellies and Sierra Negra Ranch, LLC (SNR) witness John F. O'Reilly in their August 21,  
12 2013 testimony in opposition to the settlement agreement. Matt Rowell and Paul Walker  
13 are also submitting testimony on behalf of Global<sup>1</sup> in response to certain points made by  
14 Mr. Jellies and Mr. O'Reilly.

15

16 **Q. Do SNR and NWP continue to rely on and benefit from the ICFA?**

17 A. Yes, for example, in its bankruptcy case, on August 7, 2013, SNR filed a "Motion to  
18 Assume" the ICFA, (Attachment A) telling the court that:

19

20

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In the present case, Debtor seeks authority to assume the Infrastructure Agreement because the Infrastructure Agreement fulfills a condition precedent for the DMP approval process before Maricopa County. As the assumption of the Infrastructure Agreement will benefit Debtor, its creditors and the estate, Debtor submits that the assumption of the Infrastructure Agreement demonstrates Debtor's sound business judgment and should be authorized by this Court. [Emphasis added.]

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<sup>1</sup> The terms "Global", "Global Parent" and "Global Utilities" have the meanings given them in my August 21, 2013 testimony in support of the settlement agreement.

1 **II. SNR and NWP had other choices.**

2 **Q. Mr. O'Reilly testified (page 7) that SNR felt they "had no choice" but to enter into**  
3 **the ICFA. Did SNR have other options when it entered into the ICFA?**

4 A. Yes. It simply appears that SNR and NWP (both run by sophisticated business people)  
5 believed that entering into the ICFA was in their best interest.

6

7 **Q. What alternatives to an ICFA did SNR and NWP have in 2006?**

8 A. They had at least four options.

9

10 First, they could have worked with the prior owners of West Maricopa Combine, Inc.,  
11 (WMC), the parent of Water Utility of Greater Tonopah, to obtain water service. SNR  
12 and NWP knew WMC, they were familiar with WMC, so they could have simply worked  
13 with WMC. But they didn't; instead they wanted Global to buy WMC and provide  
14 integrated water, wastewater and reclaimed water service. They wanted that so much that  
15 they agreed to payments under both the SNR and NWP ICFA's that were contingent on  
16 Global buying the shares of WMC, which they only would have done if it was in their  
17 own best interest. SNR's and NWP's ICFA payments were intended to, and did, help  
18 fund the purchase of WMC. While SNR and NWP chose not to enter an agreement with  
19 the former owners of WMC, that was an option they had.

20

21 Second, SNR and NWP could have obtained wastewater service from a nearby  
22 developer-owned company, Balterra Sewer Corp. Balterra was under the control of a  
23 competing developer. But, they had a number of other concerns about Balterra Sewer  
24 Corp. In their own words, these concerns are detailed in the attached letters and emails,  
25 which were each admitted into evidence in the arbitration hearing between Global Parent  
26 and SNR and NWP:

27

Attachment	Arbitration Exhibit #	Description	Date
B	109	Letter from Rick Jellies (NWP) to Joel Farkas (Balterra)	February 1, 2006
C	109A	Letter from Mark Brown (NWP) to Julie Hoffman (MAG) objecting to Balterra 208	June 26, 2006
D	105	Letter from Mark Brown (NWP) to Steve Owens (ADEQ) objecting to Balterra 208	August 14, 2006
E	108	Email from Bryan O'Reilly to EPA objecting to Balterra 208	February 28, 2007

13 Ultimately, Global, SNR and NWP were not successful in opposing Balterra's 208  
 14 permit, and Balterra successfully obtained a 208 permit for a fairly large area  
 15 immediately adjacent and partially covering the lands of SNR and NWP (see map,  
 16 Attachment F). As indicated in their own correspondence, SNR and NWP believed this  
 17 put them at a competitive disadvantage because a competing developer owned the  
 18 wastewater provider. Global purchased Balterra in order to comply with its obligations  
 19 under the SNR and NWP ICFAs to ensure that a 208 permit was in place for the SNR and  
 20 NWP properties. In some ways, selecting Balterra as their wastewater provider would  
 21 have been an easier choice for SNR and NWP because Balterra was further ahead in the  
 22 208 process. However, for their own reasons, SNR and NWP selected Global over  
 23 Balterra.

24  
 25 Third, SNR and NWP could have formed their own utility company. In fact, they  
 26 considered forming the "Copperleaf-SNR Sewer Company", as shown in the attached  
 27 letter from that company dated February 13, 2006 (Attachment G).

1 Fourth, SNR and NWP could have contracted with any other provider, including any of  
2 the national private water and wastewater utilities to serve their properties.

3  
4 **III. CPI Issue.**

5 **Q. Mr. Jellies and Mr. O'Reilly both request that the Commission eliminate the CPI**  
6 **adjustment from the ICFAs. What is Global's position on that request?**

7 A. Global strongly opposes this request. SNR and NWP are simply hoping that the ACC  
8 will re-write a contract to benefit SNR and NWP. The CPI provision is an important part  
9 of the ICFA, and SNR and NWP are sophisticated commercial parties who chose to sign  
10 the ICFAs. There were extensive negotiations leading up to these ICFAs, and SNR and  
11 NWP were represented by counsel in the negotiations. SNR and NWP should have to  
12 abide by the agreements they signed.

13  
14 **Q. Would Global Parent have entered into the SNR and NWP ICFAs if there was not a**  
15 **CPI provision?**

16 A. It is very unlikely that Global Parent would have signed the ICFAs without the CPI  
17 provision.

18 **Q. Is the CPI provision unique to the SNR and NWP ICFAs?**

19 A. No, it is a standard provision in the ICFAs.

20  
21 **Q. What is the purpose of the CPI provision?**

22 A. In many cases, the ICFA will be in effect over a long period of time as the developer  
23 "builds out" their property. In some cases, ICFAs may be in effect over multiple  
24 decades. Even a low rate of inflation adds up over the years, and there is always the risk  
25 that inflation will not be low. The CPI provision is directly tied to the most widely used  
26 measure of inflation and protects Global Parent from this risk.

27

1 **Q. Are there any particular concerns about the SNR and NWP ICFAs?**

2 A. Yes. The SNR and NWP properties are very large properties, and they are located very  
3 far to the west of Phoenix, their properties are actually west of the Palo Verde Nuclear  
4 Generating Station in Tonopah. The Tonopah Interchange is 28.3 miles west of Verrado,  
5 and only 25 miles east of the La Paz County. In short, they are a long way outside of  
6 the Valley. The location of these properties is shown on Attachment H. We don't know  
7 when these properties will begin developing; given how far out they are – it could be a  
8 while. And once they start, it will take decades to “build out” given the size of these  
9 properties. Thus, if there is no CPI provision, Global Parent faces a significant inflation  
10 risk, as the cost of Global Parent's services under the ICFA rises over the coming  
11 decades.

12  
13 **IV. Alleged competitive disadvantage.**

14 **Q. What about SNR and NWP's claims of competitive disadvantage?**

15 A. SNR and NWP seem to be claiming that they are at a disadvantage due to the “up front”  
16 payments required in their ICFA. But the more they pay “up front”, the less is subject to  
17 any CPI adjustment. Moreover, the payments made to date are tied to events that directly  
18 benefit SNR and NWP, including:

- 19 1. Global's purchase of WMC, which they specifically contracted for in their ICFAs;
- 20 2. Obtaining the CC&N and 208 permits, which enhance the value of their property.

21

22 I have to emphasize that these are sophisticated and experienced business people, they  
23 chose to sign the ICFAs and the Commission should take the extraordinary step of  
24 inserting itself into the reformation of a contract between two multi-million dollar  
25 business entities.

26

27

1 **Q. What about SNR's and NWP's claims that they will be at a competitive**  
2 **disadvantage compared to developers who only have to pay the hook-up fee?**

3 A. For one thing, I have no idea what developers they could be talking about. The other  
4 large, master planned developments in the Greater Tonopah service area are also parties  
5 to ICFAs. The only other master development in the area is Balterra who did not sign an  
6 ICFA and the developer was foreclosed. The Arizona Department of Water Resources  
7 (ADWR) has made it very clear that the water supplies in the hydrological area, known as  
8 the "Lower Hassayampa Sub Basin," are constrained. ADWR has stated that it will not  
9 be issuing any new "Analysis of Assured Water Supply" in this sub basin because all of  
10 the water is already spoken for by the currently planned developments, such as SNR and  
11 NWP. This means that anyone else would have to "bring their own water" to allow for  
12 development in the area, which would be their own "competitive disadvantage" because  
13 the cost of bringing water into the sub basin would be very high.

14  
15 So in consideration of all of these real factors, it is hard to believe that there exists any  
16 potential for an actual competitive disadvantage. And again, the ICFAs are contracts that  
17 SNR and NWP agreed to and benefited from and still benefit from to this day.

18  
19 **Q. What about Mr. Jellies' statement (page 5) that it is "very telling that there are two**  
20 **intervenors in this docket with ICFAs and neither of them is supporting the**  
21 **Settlement Agreement."**

22 A. I think it is more telling that out of over 30 parties to this case, only two are opposing the  
23 Settlement Agreement. I think it is more telling that out of more than 150 ICFAs, only  
24 these two developers are opposing the settlement. And it think it is more telling that out  
25 of all these ICFAs, we have only had to take two to court due to non-payment; those two  
26 are SNR and NWP.

27

1 V. Financial issues.

2 Q. What about Mr. O'Reilly's professed concern about Global Parent's "challenged  
3 financial position" (page 14) and "potential bankruptcy" (page 16).

4 A. I find these concerns ironic, given that his company, SNR – not Global – filed bankruptcy  
5 due to its inability to meet its obligations under its ICFA. And I have to emphasize that  
6 the only people talking about a potential bankruptcy of Global Parent are SNR and NWP.  
7 I must also emphasize that our auditors – Deloitte & Touche LLP – continue to consider  
8 the Global Parent a "going concern."  
9

10 Q. Is Global Parent planning for or preparing in any way for a bankruptcy filing?

11 A. No.  
12

13 Q. Does Global Parent anticipate being able to meet its financial commitments?

14 A. Yes.  
15

16 Q. Has Global Parent taken steps to improve its financial condition?

17 A. Yes. Global Parent sold its unregulated FATHOM business. This provided an  
18 immediate cash benefit of \$1.4 million, and it also improves Global Parent's cash flow  
19 and profitability, because FATHOM was still a "start up" with negative cash flow. And  
20 of course, Global Parent will benefit if and when SNR pays what it owes under its ICFA,  
21 as the arbitration panel, Superior Court and now the Bankruptcy Court have required.  
22

23 Lastly, approval of the Settlement Agreement will also be helpful, as it will move Global  
24 Parent – over eight years – to an opportunity to earn a reasonable return on its  
25 investments in the Global Utilities. And as explained in my August 21, 2013 testimony,  
26 approving the Settlement Agreement will also help strengthen the balance sheets of the  
27 Global Utilities, and ultimately Global's consolidated balance sheet. So the ultimate

1 irony of SNR and NWP's position is that they oppose the settlement – on the grounds of  
2 concerns about the financial health of Global Parent – even the settlement will improve  
3 the financial health of Global Parent.  
4

5 **Q. Mr. Jellies testifies (page 8) that because NWP has already paid \$1,000 per EDU,**  
6 **there will be insufficient funds to meet the required hook up fees. Is he correct?**

7 A. As Mr. Jellies testifies, there is still \$4,500 per EDU left for NWP to pay. The combined  
8 water and wastewater hook up fess will be \$3,500 per EDU (see Section 7.1 of the  
9 Settlement Agreement). Thus, there will be more than sufficient funds to pay the hook  
10 up fee out of NWP's ICFA payments. Mr. Jellies may be confused because Section 6.4.4  
11 provides that 70% of each future ICFA payment will be allocated to pay the hook-up  
12 fees. However, Section 6.4.4 also states that Global Parent is responsible for paying the  
13 full hook up fee. Thus, if the 70% is insufficient to meet the full hook-up fee, Global  
14 must pay any remaining hook up fee out of the remaining 30%. For this reason, because  
15 NWP has already paid \$1,000 per EDU, more than 70% of its remaining payments will  
16 be devoted to paying the hook up fee. Paul Walker's testimony also explains how this  
17 math works.  
18

19 **Q. Does this conclude your testimony?**

20 A. Yes.  
21  
22  
23  
24  
25  
26  
27

**Exhibit**

**"A"**

1 GORDON SILVER  
 GERALD M. GORDON, ESQ.  
 Nevada Bar No. 229  
 E-mail: ggordon@gordonsilver.com  
 2  
 3 CANDACE C. CLARK, ESQ.  
 Nevada Bar No. 11539  
 4 E-mail: cclark@gordonsilver.com  
 3960 Howard Hughes Pkwy., 9th Floor  
 5 Las Vegas, Nevada 89169  
 Telephone (702) 796-5555  
 6 Facsimile (702) 369-2666  
 Attorneys for Debtor

7  
 8 **UNITED STATES BANKRUPTCY COURT**  
 9 **FOR THE DISTRICT OF NEVADA**

10 In re:  
 11 SIERRA NEGRA RANCH, LLC,  
 12 Debtor.

BK-S-12-19649-LBR  
 Chapter 11

Date: OST Pending  
 Time: OST Pending

13 **MOTION TO ASSUME INFRASTRUCTURE AGREEMENT**

14 Sierra Negra Ranch, LLC, a Nevada limited liability company, Debtor and Debtor-in-  
 15 possession ("Debtor"), by and through its attorneys, the law firm of Gordon Silver, hereby  
 16 submits this *Motion to Assume the Infrastructure Agreement* ("Motion"). Pursuant to the  
 17 Motion, Debtor requests that this Court enter an order authorizing Debtor to assume the  
 18 Infrastructure Agreement (as defined herein), subject the terms of the Omnibus Order (as defined  
 19 herein), inclusive of this Court's determination of the Cure Amount (as defined herein),  
 20 confirmation of the Debtor's Plan, and "prompt" cure, which shall occur no later than March 21,  
 21 2014, and for such other and further relief as is just and proper.

22 This Motion is made and based on the *Omnibus Declaration of Barry W. Becker in*  
 23 *Support of the Motion for Order Authorizing Payment of Management Fees and Application for*  
 24 *Order Approving Employment of Gordon Silver as Attorneys for Debtor* [ECF No. 24] (the  
 25 "Omnibus Declaration"),<sup>1</sup> which is incorporated herein in its entirety by this reference, the  
 26 memorandum of points and authorities which follow, the pleadings and papers and other records  
 27

28 <sup>1</sup> All undefined capitalized terms used herein shall have the meanings ascribed to them in the Omnibus Declaration.

1 contained in this Court's file, judicial notice of which is respectfully requested, and any evidence  
2 or oral argument presented at the time of the hearing on this Motion.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I.**  
5 **INTRODUCTION**

6 1. On August 21, 2012 (the "Petition Date"), Debtor filed its voluntary petition for  
7 relief under Chapter<sup>2</sup> 11 of the Bankruptcy Code, thereby commencing the above-captioned case  
8 (the "Chapter 11 Case"). See ECF No. 1.

9 2. Debtor continues to operate its business and manage its property as Debtor and  
10 Debtor-in-Possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. See  
11 generally docket.

12 3. No request has been made for the appointment of a trustee or examiner, and no  
13 official committees have been appointed in this Chapter 11 Case. See generally id.

14 **II.**  
15 **JURISDICTION AND VENUE**

16 4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1134.  
17 This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) & (M).

18 5. The basis for the relief sought herein arises from Sections 363(b)(1), 365, 1107  
19 and 1108 of the Bankruptcy Code, and Bankruptcy Rules 6004 and 6006.

20 6. Venue of Debtor's Chapter 11 Case in this District is proper pursuant to 28 U.S.C.  
21 §§ 1408 and 1409.

22 7. Pursuant to LR 9014.2, Debtor consents to entry of final order(s) or judgment(s)  
23 by this Court if it is determined that this Court, absent consent of the parties, cannot enter a final  
24 order regarding this matter consistent with Article III of the United States Constitution.

25 ...  
26 ...

27 <sup>2</sup> All references to "Chapter" herein shall be to the Bankruptcy Code appearing in Title 11 of the U.S. Code; all  
28 references to "Section" herein shall be to the Bankruptcy Code appearing in Title 11 of the U.S. Code; all references  
to a "Bankruptcy Rule" shall refer to the Federal Rules of Bankruptcy Procedure; and all references to a "Local  
Rule" shall refer to the Local Rules of Bankruptcy Practice of the U.S. District Court for the District of Nevada.

**III.**  
**BACKGROUND**

1  
2  
3 8. As set forth in more detail in the Omnibus Declaration,<sup>3</sup> Debtor is a limited  
4 liability company organized in November 2004 to purchase an aggregate of approximately  
5 2,757.5 acres of undeveloped land (26 acres of which were subsequently conveyed) in the  
6 Tonopah area of incorporated Maricopa County, west of Phoenix, Arizona (the "Property").  
7 Omnibus Decl. ¶ 5.

8 9. Since the time of the acquisition of the Property, Debtor has proceeded with pre-  
9 development activities pursuant to Debtor's strategic plan to add value to the Property for its  
10 eventual sale and/or development, which activities have included obtaining entitlements for the  
11 development of the Property. Accordingly, the Property is now two separate Development  
12 Master Plans (jointly, the Property's "DMP"): Silver Springs Ranch, which is planned to be a  
13 2,203-acre mixed active adult and conventional single family residence golf course community,  
14 and Silver Water Ranch, which is planned to be a 528.5-acre single family residence community.  
15 See id. ¶ 8.

16 10. As a condition precedent to the DMP approval process, Maricopa County required  
17 that Debtor complete and have approved an integrated sewer and water plan for the Property  
18 (known as a "MAG 208 Plan"). To satisfy this county condition and development process  
19 necessity, Debtor entered into an agreement (the "Infrastructure Agreement"), a true and correct  
20 copy of which is attached to the Omnibus Declaration as **Exhibit "13,"** with Global Water  
21 Resources, the sewer and water utility that is to service the Property ("Global"), which provided  
22 for the development and facilitation of the MAG 208 Plan to assure that all portions of the  
23 Property had sufficient access to sewer and water utility services. See id. ¶ 28.

24 11. On December 21, 2012, Global filed its *Motion to Set a Date by Which the Debtor*  
25 *Must Either Reject, or Assume and Cure its Executory Contract with Global Water Resources,*  
26 *Inc.* [ECF No. 134] (the "Motion to Compel Assumption"), thereby seeking a date by which  
27 Debtor must either assume or reject the Infrastructure Agreement. Though the hearing of the

28 <sup>3</sup> For brevity not all the facts set forth in the Omnibus Declaration have been repeated herein. For additional detail relating to Debtor's Business, its Property, and its leasehold interests, see paragraphs 6 through 17.

1 Motion to Compel Assumption was continued a number of times, this Court made its final  
2 determination on the relief requested therein on July 11, 2013. Pursuant to the *Omnibus Order*  
3 [ECF No. 348] (the "Omnibus Order"), the Motion to Compel Assumption was granted.

4 12. Accordingly, the Omnibus Order requires Debtor to assume or reject the  
5 Infrastructure Agreement on or before the hearing, which is currently scheduled to occur on  
6 August 21, 2013, to consider approval of *Debtor's Third Amended Disclosure Statement to*  
7 *Accompany Debtor's Third Amended Plan* (the "Third Amended Disclosure Statement").<sup>4</sup>

8 13. Further pursuant to the Omnibus Order, the determination of the amount  
9 necessary to cure the default under the Infrastructure Agreement (the "Cure Amount") will occur  
10 at the hearing to consider confirmation of the Third Amended Plan. See id.

11 14. Additionally, the Omnibus Order sets forth that "if the Debtor's plan is confirmed,  
12 the Debtor must tender the cure amount, as determined by this Court, within four months of the  
13 effective date, which will be on or before March 21, 2014." See id.

14 **IV.**  
15 **RELIEF REQUESTED**

16 By this Motion, Debtor seeks authority, pursuant to Section 365 of the Bankruptcy Code,  
17 to assume the Infrastructure Agreement, subject the terms of the Omnibus Order, inclusive of  
18 this Court's determination of the Cure Amount, confirmation of the Debtor's Plan, and "prompt"  
19 cure, which shall occur no later than March 21, 2014, and for such other and further relief as is  
20 just and proper. The relief requested herein is based on Debtor's sound business judgment, as  
21 the Infrastructure Agreement fulfills the condition precedent for Debtor's DMP approval process  
22 before Maricopa County.<sup>5</sup> As such, the relief requested in this Motion is in the best interest of  
23 Debtor, its estate, and its creditors, and should be granted.

24 ...

25 <sup>4</sup> As the Omnibus Order also denies the *Debtor's Second Amended Disclosure Statement to Accompany Debtor's*  
26 *Second Amended Plan of Reorganization* [ECF No. 289] (the "Second Amended Disclosure Statement"), Debtor's  
27 Third Amended Disclosure Statement, along with the *Debtor's Third Amended Plan of Reorganization* (the "Third  
Amended Plan") will be filed no later than August 11, 2013.

28 <sup>5</sup> For additional information on the instrumental nature and necessity of the Infrastructure Agreement, Debtor  
respectfully refers the Court to the briefs filed by Debtor discussing the "ride-through" concept. See ECF Nos. 292  
& 309.

V.  
**LEGAL AUTHORITY**

Section 365(a) of the Bankruptcy Code provides that a debtor, subject to the court's approval, may assume or reject *any executory contract*.<sup>6</sup> See 11 U.S.C. § 365(a); First Ave. W. Bldg., LLC v. James (In re Onecast Media, Inc.), 439 F.3d 558, 563 (9th Cir. 2006). A debtor's decision to assume or reject an executory contract or unexpired lease must only satisfy the "business judgment" rule. See Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007); Robertson v. Pierce (In re Chi-Feng Huang), 23 B.R. 798, 800-01 (B.A.P. 9th Cir. 1982). The primary concern in this regard is whether the assumption or rejection benefits the bankruptcy estate; assumption or rejection should only be disapproved when such action is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice. In re Ponoma Valley Medical Group, 476 F.3d at 670; In re Chi-Feng Huang, 23 B.R. at 801. Thus, a debtor satisfies the "business judgment" test when it decides, in good faith, that assumption or rejection may benefit the estate. In re FCX, Inc., 60 B. R. 405, 411 (Bankr. E.D. N.C. 1986); In re Chipwich, Inc., 54 B.R. 427, 430-31 (Bankr. S.D.N.Y. 1985); Commercial Fin. Ltd. v. Hawaii Dimensions (In re Hawaii Dimensions), 47 B.R. 425, 427 (Bankr. D. Haw. 1985).

In the present case, Debtor seeks authority to assume the Infrastructure Agreement because the Infrastructure Agreement fulfills a condition precedent for the DMP approval process before Maricopa County. As the assumption of the Infrastructure Agreement will benefit Debtor, its creditors and the estate, Debtor submits that the assumption of the Infrastructure Agreement demonstrates Debtor's sound business judgment and should be authorized by this Court.

...  
...  
...

<sup>6</sup> An executory contract is one on which performance is due to some extent on both sides, where the obligations of both parties are so far unperformed that the failure of either party to complete performance would constitute a material breach and thus excuse the performance of the other. Commercial Union Ins. Co. v. Texscan Corp. (In re Texscan Corp.), 976 F.2d 1269, 1272 (9th Cir. 1992); Griffel v. Murphy (In re Wegner), 839 F.2d 533, 536 (9th Cir. 1988).

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**VI.**  
**CONCLUSION**

WHEREFORE, Debtor respectfully requests that the Court enter an order authorizing Debtor, pursuant to Section 365 of the Bankruptcy Code, to assume the Infrastructure Agreement, subject, however, to the terms of the Omnibus Order, inclusive of this Court's determination of the Cure Amount, confirmation of the Debtor's Plan, and "prompt" cure, which shall occur no later than March 21, 2014. Debtor also requests such other and further relief as is just and proper.

DATED this 7th day of August, 2013.

GORDON SILVER

By:           /s/ Candace C. Clark            
GERALD M. GORDON, ESQ.  
CANDACE C. CLARK, ESQ.  
3960 Howard Hughes Pkwy., 9th Floor  
Las Vegas, Nevada 89169  
Attorneys for Debtor

**Exhibit**

**"B"**



2/01/06

Mr. Joel Farkas  
President, JF Properties  
6720 N. Scottsdale Rd.  
Suite 250  
Scottsdale, AZ 85253

**Re. Tonopah Valley Regional Wastewater Solution**

Dear Joel,

After making several unsuccessful attempts to contact you via direct requests to your representative, Keith Watkins and also a message to your voice mail, we have decided it best if we express in writing our concerns over your actions related to your stated desire to become the regional provider of wastewater services in the Tonopah Valley. Specifically, we are concerned about Balterra Sewer Company's unwillingness to provide us with critical information relating to the design, scheduling and costs for a regional treatment facility in Tonopah Valley.

Since our last meeting on November 15, 2005, our Copperleaf Development Master Plan has been through a second review by the county and we are completing our public participation process. We intend to take our project to the Planning Commission at the earliest possible date. In order to obtain a recommendation for approval, we must have a better idea of exactly how our property will receive essential services, including sewer service.

We appreciate your initiative in commissioning a sewer study for the area north of I-10, but we are concerned about Balterra's commitment to provide sewer service to our developments. As we discussed in our meeting of 11/15/05 and we have reiterated to your representatives on numerous occasions, Copperleaf, the Sierra Negra / Silver Water property and the Triyar Property located at 435th Avenue are comprised of properties both north and south of I-10. Based on that, we think it is in our best interest to utilize a single provider to service our properties on both sides of I-10. We were interested in pursuing sewer service from Balterra, but, unfortunately, we have yet to receive the requested and promised outline of the business arrangement you propose as a regional sewer provider.

If your intent is to be the regional sewer provider for that area then we believe your proposed plan should cover both North and South of Interstate 10. As developers, it is critical that Balterra provide us with information relating to proposed costs of service, plant design and capacity, and construction, scheduling and permitting for the proposed plant. In Arizona, it is standard practice for utility companies to provide such information to developers. Further, we have requested information regarding Balterra's qualifications to construct and operate the plant effectively and

*Land Entitlement Acquisition Development*

2151 EAST BROADWAY ROAD SUITE 203 TEMPE, ARIZONA 85282 (480) 557-7771 FAX (480) 557-7772  
EMAIL: LEADGROUPLAND@AOL.COM

SNR003865



an explanation of Balterra's plan to manage the necessary plant expansions in such a way as to meet the County requirements, satisfy our timing needs as developers and to allow the other properties in the area to develop without being hampered by a failure to design and construct the necessary facilities. At this juncture, Balterra's failure to provide this basic information raises serious concerns about Balterra's willingness or ability to serve our developments in a timely and adequate fashion. Additionally, Balterra representatives have stated that Balterra is designing only a first phase with a capacity of .5MGD. Without additional expansions designed and funding options in place, the county will not allow any of the other property owners to proceed to final plat. Despite our requests, Balterra has failed to provide us with any information regarding the design or construction of additional plant capacity. Another major concern is that we recently learned that Balterra has filed a request for a 208 permit over our property and that of several other property owners without first asking permission.

Based on the lack of information provided by Balterra to date, Balterra's unwillingness to answer any of our questions regarding the design and construction process, and Balterra's request that we study the area south of I-10 ourselves, we have requested that Global Water initiate a comprehensive study of both water and wastewater in the entire Tonopah Valley. Those documents should be ready to submit in the next couple of weeks. We believe that those studies, in conjunction with your study should provide the county with a good planning basis for both water and wastewater facilities. At that point, if Balterra still is unwilling to provide the requested information, then we may have no choice but to execute an agreement with another sewer provider and file appropriate objections with the County and MAG relating to Balterra's pending 208 application. We also may have no choice but to file objections or letters of concern with the Corporation Commission. We would like to avoid these options, but Balterra's unwillingness to provide requested information and details leaves us with little choice.

Should you wish to service the Valley as a regional provider, we would welcome your detailed proposal and give it its due consideration. We expect to make a decision shortly so we strongly encourage you to respond.

Regards,

A handwritten signature in cursive script that reads "Richard Jellies".

Richard Jellies

Managing Member, The Lead Group, for New World Properties, Inc.

C Mark Brown, New World Properties, Inc.  
Todd Wiley, Gallagher & Kennedy  
Barry Becker, Silver Water Ranch  
Bob Agahi, Triyar Properties

*Land Entitlement Acquisition Development*

2151 EAST BROADWAY ROAD SUITE 203 TEMPE, ARIZONA 85282 (480) 557-7771 FAX (480) 557-7772

EMAIL: LEADGROUPLAND@AOL.COM

SNR003866

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Joel Parkas  
President, JF Properties  
6720 N. Scottsdale Rd., Suite 250  
Scottsdale, AZ 85253

2. Article Number  
(Transfer from service label)

PS Form 3811, February 2004

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature X		<input type="checkbox"/> Agent
		<input type="checkbox"/> Addressee
B. Received by (Printed Name)	C. Date of Delivery	
D. Is delivery address different from item 1? If YES, enter delivery address below:		
		<input type="checkbox"/> Yes
		<input type="checkbox"/> No
E. Service Type		
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail	
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<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee)		<input type="checkbox"/> Yes

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Postage	\$ 87
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Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	X
<b>Total Postage &amp; Fees</b>	<b>\$ 407</b>

Postmark  
Here

Sent to: JF Companies  
 Street, Apt. No. or PO Box No. 6720 N Scottsdale Rd, Suite 250  
 City, State, ZIP+4 Scottsdale AZ 85253  
PS Form 3811, February 2004 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Joel Farkas  
 President, JF Properties  
 6720 N. Scottsdale Rd., Suite 250  
 Scottsdale, AZ 85253

2. Article Number  
 (Transfer from service label) 7004 0550 0001 0922 3703

**COMPLETE THIS SECTION ON DELIVERY**

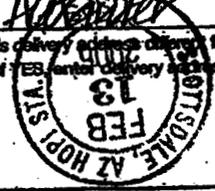
A. Signature  Agent  Addressee  
X J. Alexander

B. Received by (Printed Name) J. Alexander C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



# Exhibit

"C"



New World Properties, Inc.

Maricopa Association of Governments  
Received

JUN 27 2006

June 26, 2006

Julie Hoffman, Environmental Planner  
Maricopa Association of Governments  
302 North 1<sup>st</sup> Avenue, Suite 300  
Phoenix, AZ 85003

Re: Draft Battered Wastewater Treatment Facility, Clean Water Act, MAG 208 Amendment, Dated  
April 2006

Dear Ms. Hoffman:

We appreciate the opportunity to review and comment on the referenced Draft Battered Wastewater Treatment Facility, Clean Water Act, MAG 208 Amendment, dated April 2006, prepared by CSA Engineering ("Draft Battered 208"). The Draft Battered 208 proposes to serve a 24 square mile service area shown in Figure 2A in blue, labeled as the North Tonopah's Southeast Planning Area (NTSEPA).

You will see in the enclosed letter dated May 10, 2006 that we as the owner and/or developer of property located at 395<sup>th</sup> Ave. & I-10 referred to as "Copperleaf" have requested service from Hassayampa Utilities Company ("HUC"), owned by Global Water Resources, and as such formally support their HUC Consolidated Service Area 208 Plan Amendment ("HUC Consolidated 208") application filed on May 8, 2006. We believe that the regional plan for 175 sections as proposed in the HUC Consolidated 208 is far superior to that proposed in the Draft Battered 208.

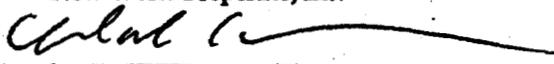
We believe the Draft Battered 208 proposal does not adequately address the service needs for the greater Tonopah area. Our property encompasses approximately 1,200 acres bisected by I-10. The Draft Battered 208 plan only addresses property north of I-10. We are planning to develop "Copperleaf" a mixed use master plan on our property and believe being forced to utilize two different service providers on our property will harm our efforts to create a viable plan. Additionally, we are concerned that the principals in the Battered group, who are competing developers, will use their position as a utility provider to gain unearned competitive advantage in the marketplace.

Accordingly, we strongly oppose the inclusion of our 1,200 acres known as "Copperleaf", as described in the attached legal description, in the Draft Battered 208.

Thank you in advance for your consideration of this important matter.

Sincerely,

New World Properties, Inc.

  
Mark C. Brown - President

COPY

# Exhibit

"D"

August 14, 2006

Steve Owens, Director  
Arizona Department of Environmental Quality  
1110 W. Washington Street  
Phoenix, AZ 85007

**Re: Draft Balterra Wastewater Treatment Facility, Clean Water Act, MAG 208  
Amendment, Dated April 2006**

Dear Mr. Owens:

We are writing to request your attention to objections we have made regarding the referenced Draft Balterra Wastewater Treatment Facility, Clean Water Act, MAG 208 Amendment, dated April 2006, prepared by CSA Engineering ("Draft Balterra 208"), for the Balterra Sewer Corporation. The Draft Balterra 208 proposes to serve a 24 square mile service area shown in blue hatch in the attached exhibit.

As a property owner and developer of 1,280 acres, referred to as Copperleaf, parcel numbers # 506-36-025A; # 506-36-027; # 506-36-031C; # 506-36-031D; # 506-36-632A; # 506-36-035N; # 506-45-034B5; # 506-45-034D; # 506-45-035E; # 506-45-035F; # 506-45-035G; # 506-36-026 6; # 506-45-035H7, we were inserted into the Draft Balterra 208 service area against our knowledge and against our wishes. You will see in the enclosed letter dated May 10, 2006 that we have requested service from Hassayampa Utility Company ("HUC"), owned by Global Water, Inc., and have executed a service agreement with them for wastewater service. Some of the many reasons we chose to work with Global instead of Balterra Sewer Corporation are as follows:

1. Global owns the Water Utility of Greater Tonopah (WUGT) and is therefore able to provide an integrated utility solution for our development;
2. Global, unlike Balterra Sewer Corporation, has a proven track record in Arizona, currently serving almost 14,000 customers both water and sewer in Western Pinal County and Cave Creek;
3. Global is a private, locally owned and financed water and wastewater utility, leading the State in its use of reclaimed water to reduce the dependency on non-renewable sources, with a 30% reduction in potable water demand enjoyed through these efforts in its service area in Maricopa;
4. Global has no competing interests with developers, whereas Balterra Sewer Corporation has a vested interest to provide service to the Balterra development preferentially.

Upon learning of the inclusion of our property in the Draft Balterra 208, we formally submitted objections to MAG and MCESD in writing on June 27, 2006 (enclosed) and on the record at the corresponding MAG Committee Meetings on that date.

We do not believe our concerns have been given due consideration by MAG and its committees, and respectfully request that your Department remand the Draft Balterra 208 back to its sponsor, Maricopa County Environmental Services Department (MCESD), for further consideration in light of the objections of numerous property owners and developers including ourselves. The alternative we prefer and formally support is the HUC Consolidated Service Area 208 Plan Amendment ("HUC Consolidated 208")

NWP001234

application filed on May 8, 2006. We believe that the regional plan for 175 sections as proposed in the HUC Consolidated 208 is far superior to that proposed in the Draft Balterra 208, in that it capitalizes on the points listed above to offer a thoughtful, comprehensive approach to delivering integrated water, wastewater, and reclaimed water services to the West Valley.

Alternately, the approval of a 2 section 208 to match Balterra Sewer Corporation's conditional CC&N service area would allow the 0.55 MGD wastewater treatment plant proposed to serve the Balterra development proper and the Saddle Mountain Unified School District to move forward, while the balance of 22 sections, in which my property lies, can be reconsidered as more appropriate to be served by HUC.

Accordingly, we strongly oppose the inclusion of our 1,280 acres, known as Copperleaf, as described in the attached legal description, in the Draft Balterra 208.

Thank you in advance for your consideration of this important matter.

Sincerely,

Mark Brown  
President New World Properties, Inc

cc: Joan Card, Director, Water Quality, ADEQ  
Claire Zucker, Chair, SWQWG  
Julie Hoffman, Environmental Planner  
Ken James, P.E., MCESD  
Linda Taunt, ADEQ  
Edwina Vogan, ADEQ  
Trevor Hill, Global Water Resources

**EXHIBIT**

**"E"**

---

**From:** Bryan [bor@snrlc.net]  
**Sent:** Wednesday, February 28, 2007 4:57 PM  
**To:** 'Catanzaro.Michael@epamail.epa.gov'  
**Subject:** FW: Copy of letter regarding Sierra Negra Ranch  
**Attachments:** Ltr to A. Strauss-DJS20070226.DOC

Michael,

I hope you are feeling better or the reason why you were in the hospital has been resolved.

Without pestering you, I wanted to forward a copy of one of the letters that other developers are writing on behalf of their properties to contest the Balterra 208. There will be other letters coming from me and other major land holders as time goes by and I wanted to alert you so that you or the person handling this issue don't become overwhelmed by the issues Balterra has created.

Once again, I hope all is well with you and thank you for your time.

Best,  
Bryan O'Reilly  
SNR Management LLC  
702.812.3332

---

**From:** Garry Hays [<mailto:ghays@thehendersonlawfirm.com>]  
**Sent:** Wednesday, February 28, 2007 1:49 PM  
**To:** [MarkNewWorld@aol.com](mailto:MarkNewWorld@aol.com); [RJellies@aol.com](mailto:RJellies@aol.com); [wel@wamplc.com](mailto:wel@wamplc.com)  
**Subject:** Revised Ltr

Here is the letter.

Garry D. Hays  
Sr. Associate  
**The Henderson Law Firm**  
Esplanade Center III  
2415 East Camelback Road, Suite 1050  
Phoenix, Arizona 85016

*Direct:* (602) 808-1008  
*Main:* (602) 808-1000  
*Mobile:* (480) 329-6143  
*Facsimile:* (602) 808-1010

*E-mail:* [ghays@thehendersonlawfirm.com](mailto:ghays@thehendersonlawfirm.com)

*For more information, please visit:* [www.thehendersonlawfirm.com](http://www.thehendersonlawfirm.com)

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LAW FIRM

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# EXHIBIT

"F"



# ATTACHMENT

"G"

# Copperleaf-SNR Sewer Company

2151 E Broadway Road ♦ Suite 203 ♦ Tempe ♦ Arizona ♦ 85282

February 13, 2006

Copperleaf-SNR Sewer Company intends to develop a regional sewer plant for the Tonopah area. In the event that Copperleaf-SNR Sewer Company becomes a regional provider, we would welcome the inclusion of any tributary properties.

Interested parties can express their interest in obtaining service from Copperleaf-SNR by signing below.

Regards,

*Rick Jellies & Bryan O'Reilly*  
*Copperleaf-SNR Sewer Company*

In the event that Copperleaf-SNR Sewer Company becomes a regional provider we are interested in obtaining service from this entity.

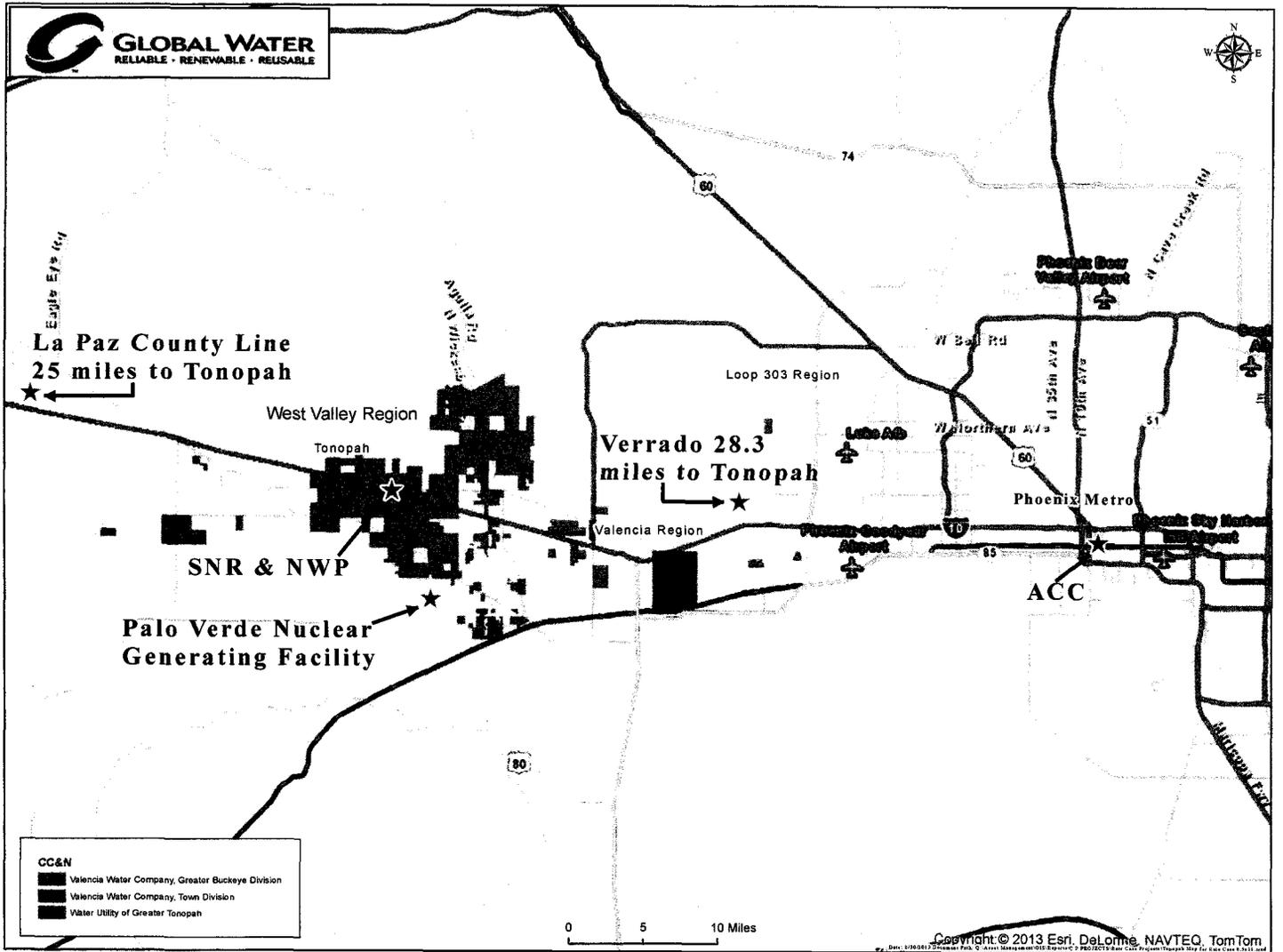
Name: \_\_\_\_\_

Project Name/Property  
description: \_\_\_\_\_

NWP001514

# ATTACHMENT

"H"



**CC&N**

- Valencia Water Company, Greater Buckeye Division
- Valencia Water Company, Town Division
- Water Utility of Greater Tonopah



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BEFORE THE ARIZONA CORPORATION COMMISSION

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**COMMISSIONERS**

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF  
VALENCIA WATER COMPANY – TOWN DIVISION  
FOR THE ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES FOR UTILITY  
SERVICE DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE OF ARIZONA

Docket No. W-01212A-12-0309

IN THE MATTER OF THE APPLICATION OF  
GLOBAL WATER – PALO VERDE UTILITIES  
COMPANY FOR THE ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES FOR UTILITY  
SERVICE DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. SW-20445A-12-0310

IN THE MATTER OF THE APPLICATION OF WATER  
UTILITY OF NORTHERN SCOTTSDALE, INC. FOR A  
RATE INCREASE

Docket Nos. W-03720A-12-0311

IN THE MATTER OF THE APPLICATION OF  
WATER UTILITY OF GREATER TONOPAH FOR  
THE ESTABLISHMENT OF JUST AND REASONABLE  
RATES AND CHARGES FOR UTILITY SERVICE  
DESIGNED TO REALIZE A REASONABLE RATE OF  
RETURN ON THE FAIR VALUE OF ITS PROPERTY  
THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-02450A-12-0312

IN THE MATTER OF THE APPLICATION OF  
VALENCIA WATER COMPANY – GREATER  
BUCKEYE DIVISION FOR THE ESTABLISHMENT OF  
JUST AND REASONABLE RATES AND CHARGES FOR  
UTILITY SERVICE DESIGNED TO REALIZE A  
REASONABLE RATE OF RETURN ON THE FAIR  
VALUE OF ITS PROPERTY THROUGHOUT THE  
STATE OF ARIZONA

DOCKET NO. W-02451A-12-0313

**REBUTTAL TESTIMONY  
OF PAUL WALKER**

1 IN THE MATTER OF THE APPLICATION OF  
2 GLOBAL WATER – SANTA CRUZ WATER COMPANY  
3 FOR THE ESTABLISHMENT OF JUST AND  
4 REASONABLE RATES AND CHARGES FOR UTILITY  
5 SERVICE DESIGNED TO REALIZE A REASONABLE  
6 RATE OF RETURN ON THE FAIR VALUE OF ITS  
7 PROPERTY THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-20446A-12-0314

5 IN THE MATTER OF THE APPLICATION OF  
6 WILLOW VALLEY WATER COMPANY FOR THE  
7 ESTABLISHMENT OF JUST AND REASONABLE  
8 RATES AND CHARGES FOR UTILITY SERVICE  
9 DESIGNED TO REALIZE A REASONABLE RATE OF  
10 RETURN ON THE FAIR VALUE OF ITS PROPERTY  
11 THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-1732A-12-0315

**REBUTTAL TESTIMONY  
OF PAUL WALKER**

11 Rebuttal Testimony  
12 of  
13 Paul Walker  
14 in Support of Settlement Agreement

15 August 30, 2013  
16  
17  
18  
19  
20  
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27

1 **I. Introduction.**

2 **Q. Please state your name.**

3 A. My name is Paul Walker.

4  
5 **Q. Are you the same Paul Walker who has testified earlier in this docket?**

6 A. I am.

7  
8 **Q. How do you respond to the testimony of NWP witness Richard Jellies that the**  
9 **Settlement will underfund the HUF?**

10 A. Mr. Jellies is mistaken. In his Direct Testimony, at page 8, lines 17-26 he worries that the  
11 \$4,150 per EDU fee that NWP still owes to Global will be treated under the 70/30 split.  
12 The Settlement establishes HUFs in NWP's service area of \$1,750 each for water and  
13 wastewater service – totaling \$3,500. The remaining \$4,150 that NWP owes Global will  
14 be allocated this way: \$3,500 to the HUFs, and the remaining \$650 to Global Parent. Thus  
15 his concern is unfounded.

16  
17 **Q. What is the intent of the HUF in the Settlement?**

18 A. The intent is to ensure that the ICFA fees due under ICFA's are treated as CIAC to a very  
19 large extent – approximately 70 percent.<sup>1</sup> And to ensure that Global Parent still has the  
20 funding to meet their obligations as set forth under existing ICFA's, including the  
21 opportunity to recover its remaining acquisition costs, the carrying costs of its regional  
22 plant not in rate base (the Southwest Plant), and to implement the plan required to serve the  
23 water-scarce Lower Hassayampa Sub-basin (i.e., the area in which NWP's planned  
24 development exists.).

25  
26  
27 <sup>1</sup> 70 percent is the negotiated ratio that was based on the average ICFA fee per each area compared to the HUF values established, however, some of the older ICFA fees are smaller and thus the HUF fees will be greater than 70 percent.

1 **Q. Are the hook-up fees established in the Settlement going to forever remain at the**  
2 **same level?**

3 A. They will remain at that level until the Global Utilities' next rate case(s), at which point the  
4 Company, Staff, RUCO, and any intervenors will certainly reevaluate them in light of the  
5 economy, development, infrastructure costs, permitting costs, and financing costs.

6  
7 **Q. What is your response to the testimony of John O'Reilly, wherein he urges the**  
8 **Commission to assert jurisdiction over the parent holding company, Global Water**  
9 **Resources?**

10 A. Mr. O'Reilly certainly understands that a holding company structure is highly typical in  
11 the utility world. He is on the board of NV Energy, Inc., which is the parent of two  
12 Nevada electric utility companies, NVE-North and NVE-South (i.e., Sierra Pacific Power  
13 Company and Nevada Power) which together do business as NV Energy Operating  
14 Company. NV Energy Inc. is in the process of considering a purchase and merger offer  
15 from MidAmerican Energy Holdings Company – which is, like NV Energy, Inc., a holding  
16 company.

17  
18 It was fascinating to learn that Mr. O'Reilly believes that state regulatory commissions can  
19 and should assert jurisdiction over holding companies. While some may view that as an  
20 attractive idea; the Commission should disregard the suggestion. Arizona defines what is  
21 and what is not a "utility" and it regulates utilities. It still has the right to "lock the barn  
22 door before the horse gets out" by closely monitoring financial transactions affecting  
23 utilities, whether from the parent company, or with a third-party.

24  
25 **Q. Does Global Parent operate in an abnormal manner when compared to other utility**  
26 **holding companies?**

27 A. No, Global Parent manages and plans for the needs of its subsidiaries. One look at NV

1 Energy's investor relations page shows that NV, like Global Parent, is constantly  
2 evaluating investment needs, resource issues, and operational and regulatory matters  
3 affecting its utility subsidiaries. Where Global Parent is unique, is in the ICFA.  
4

5 **Q. How is Global Parent's role in the ICFA unique in the traditional holding company**  
6 **model?**

7 A. Global Parent developed and signed ICFAs directly with developers – the intent was to  
8 provide a means of addressing costs that typically are not included in rates: Carrying costs  
9 on unused plant, and acquisition premiums (the amount of the purchase price in excess of  
10 the book value of the acquired entity.) We have spent seven years explaining the  
11 reasoning, and I won't repeat it all here – in the end, it was simply an effort to deal with  
12 dozens of developers attempting to move forward simultaneously in areas with relatively  
13 scarce water resources, and to put the costs of such planning and development onto  
14 developers without creating financial issues for the ratepayers or the utility companies  
15 owned by Global Parent.  
16

17 **Q. Are components of the ICFA obligations undertaken by Global Parent in line with**  
18 **traditional holding company functions?**

19 A. Yes. For example in the SNR ICFA:

- 20 • Recital D. Coordinating the provision of utility services.
- 21 • Recital D. Coordinate and arrange for the filing of regulatory applications and  
22 permits by the appropriate utility.
- 23 • Obligations of Coordinator, Agreement 1. Conduct acquisitions in order to  
24 facilitate utility operations.  
25

26 **Q. Does it appear that NV Energy, Inc. does similar things?**

27 A. It does. Their investor presentation package, entitled "Investor Meetings New York March

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5-7, 2013” provides a solid overview of their efforts. NV Energy, Inc. provides an overview of planned projects, demand estimates, future growth and infrastructure estimates, capital expenditures emplacing “smart meters” and building the ON transmission line, planned regulatory filings for each of their utility subsidiaries (NVE-S and NVE-N), as well as overviews of pending FERC and state filings.) (See Attachment A)

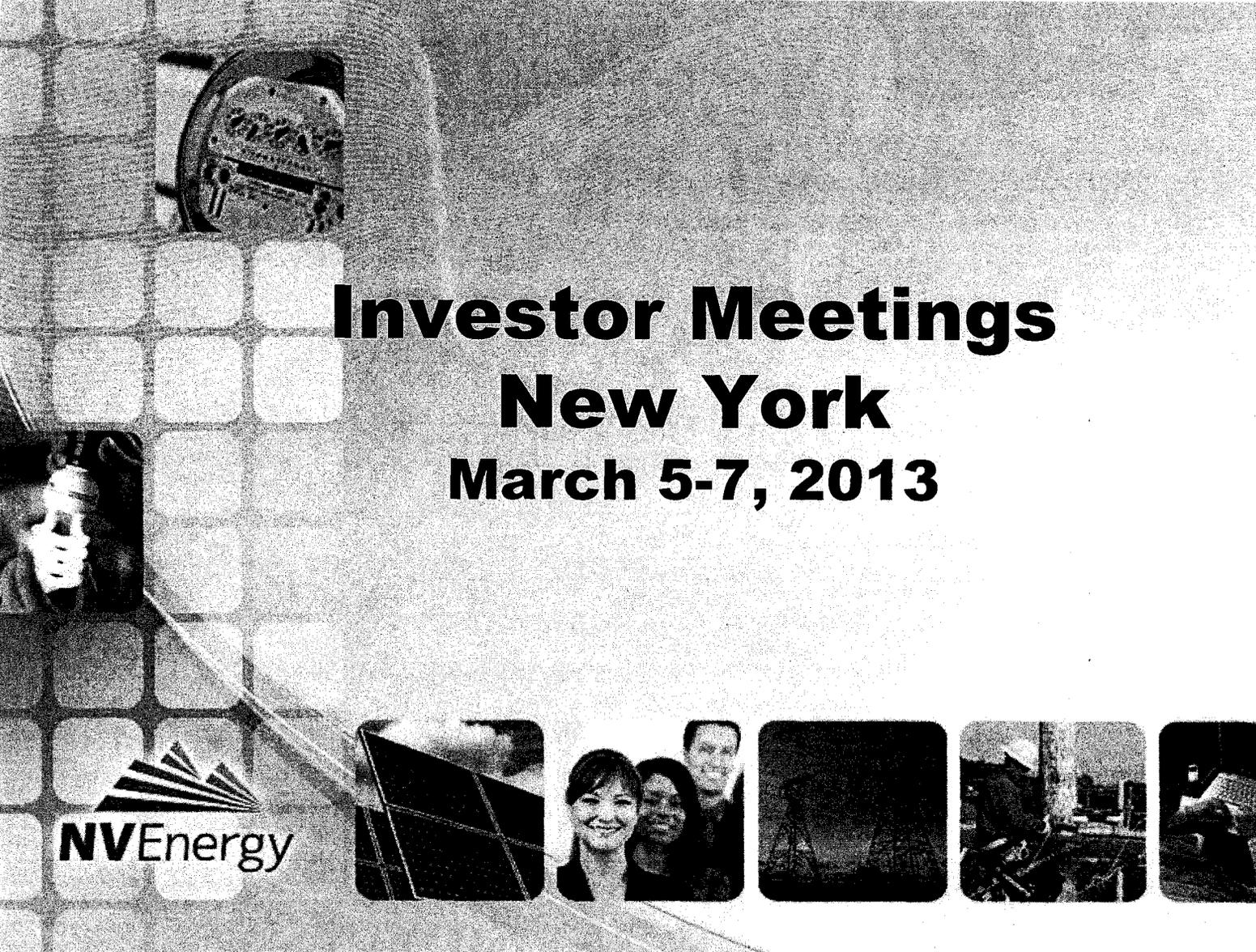
In short, NV Energy, Inc. is coordinating, financing, and overseeing its utility subsidiaries; GWR does the same thing.

**Q. Does this conclude your testimony?**

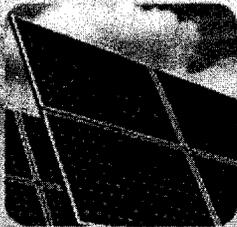
A. Yes.

# Attachment

"A"



**Investor Meetings  
New York  
March 5-7, 2013**



## Safe Harbor Statement

This presentation may contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 regarding the future performance of NV Energy, Inc. and its subsidiaries, Nevada Power Company and Sierra Pacific Power Company both d/b/a NV Energy. Forward-looking statements include earnings guidance and estimates or forecasts of operating and financial metrics. These statements reflect current expectations of future conditions and events and as such are subject to a variety of risks, uncertainties and assumptions that could cause actual results to differ materially from current expectations. These risks, uncertainties and assumptions include, but are not limited to, NV Energy Inc.'s ability to maintain access to the capital markets, NV Energy Inc.'s ability to receive dividends from its subsidiaries, the financial performance of NV Energy Inc.'s subsidiaries, particularly Nevada Power Company and Sierra Pacific Power Company both d/b/a NV Energy, and the discretion of NV Energy Inc.'s Board of Directors with respect to the payment of future dividends based on its periodic review of factors that ordinarily affect dividend policy, such as current and prospective financial condition, earnings and liquidity, prospective business conditions, regulatory factors, and dividend restrictions in NV Energy Inc.'s and its subsidiaries' financing agreements. For Nevada Power Company and Sierra Pacific Power Company both d/b/a NV Energy, these risks and uncertainties include, but are not limited to, future economic conditions both nationally and regionally, changes in the rate of industrial, commercial and residential growth in their service territories, their ability to procure sufficient renewable energy sources in each compliance year to satisfy the Nevada Renewable Energy Portfolio Standard, changes in environmental laws and regulations, construction risks, including but not limited to those associated with the ON Line project, their ability to maintain access to the capital markets for general corporate purposes and to finance construction projects, employee workforce factors, unseasonable weather, drought, wildfire and other natural phenomena, explosions, fires, accidents, mechanical breakdowns that may occur while operating and maintaining an electric and natural gas system, their ability to purchase sufficient fuel, natural gas and power to meet their power demands and natural gas demands for Sierra Pacific Power Company d/b/a NV Energy, financial market conditions, and unfavorable rulings in their pending and future regulatory filings. Further risks, uncertainties and assumptions that may cause actual results to differ from current expectations pertain to weather conditions, customer and sales growth, plant outages, operations and maintenance expense, depreciation and allowance for funds used during construction, interest rates and expense, cash flow and regulatory matters. Additional cautionary statements regarding other risk factors that could have an effect on the future performance of NV Energy, Inc., Nevada Power Company and Sierra Pacific Power Company both d/b/a NV Energy are contained in their Annual Reports on Form 10-K for the year ended December 31, 2012, filed with the Securities and Exchange Commission. NV Energy Inc., Nevada Power Company and Sierra Pacific Power Company both d/b/a NV Energy undertake no obligation to release publicly the result of any revisions to these forward-looking statements that may be made to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.

### IR Contacts

Max Kuniansky  
Executive, Investor Relations  
(702) 402-5627  
mkuniansky@nvenergy.com

Jessica Lucero  
Financial Analyst  
(702) 402-5612  
jlucero@nvenergy.com



# Table of Contents

	Page No.
<b>Presentation</b> .....	4 - 29

## **Supplemental Material**

<input type="checkbox"/> Financial Information .....	31 - 33
<input type="checkbox"/> Energy Supply .....	34 - 35
<input type="checkbox"/> Energy Delivery.....	36 - 38
<input type="checkbox"/> Energy Strategy.....	39 - 47
<input type="checkbox"/> Regulation.....	48 - 53
<input type="checkbox"/> Economy and Customer Usage Trends .....	54 - 56



# NV Energy: Who We Are

**NYSE ticker: NVE**

**Market capitalization: \$4.6 billion**

**Customers: 2.4 million Nevadans**

- ~90% of state population
- 1.2 million accounts
- 40 million tourists annually

**Territory: ~46,000 sq. miles**

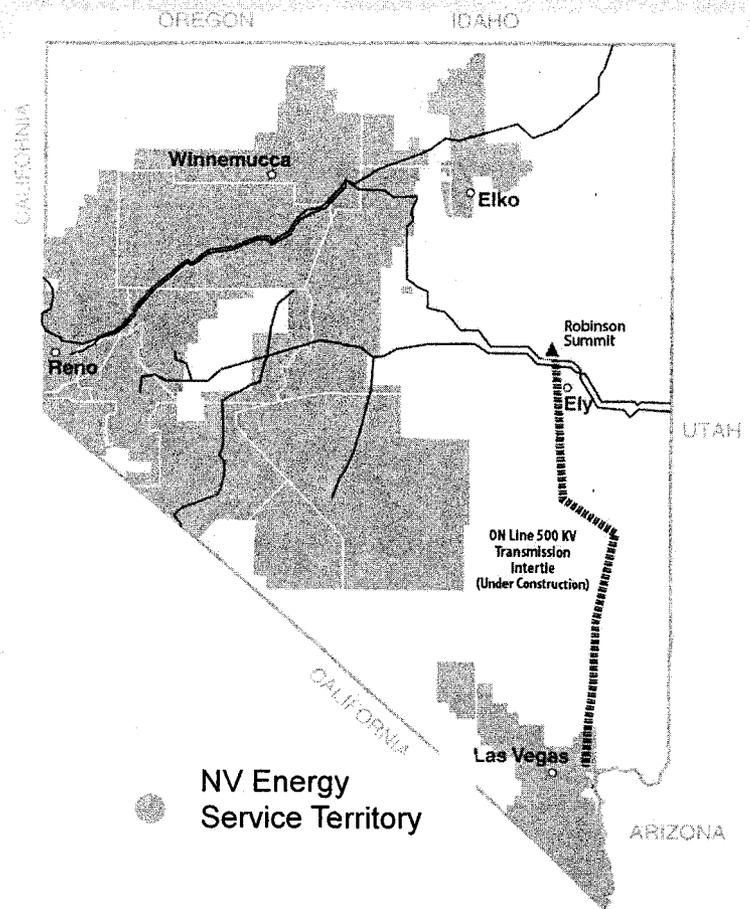
**Transmission: ~3,800 miles**

**Generation capacity:**

- 6,078 MW
- 82% of peak load

**Peak load (MW):**

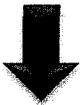
- 7,437 (2012)
- 7,609 (All-time)



# Strong Track Record

Transforming NV Energy

**NVE  
1.0**



**NVE  
2.0**



**NVE  
3.0**

**1999: Sierra Pacific Resources and Nevada Power merge**

**2002 – 2011: Western energy crisis; financial recovery; rapid growth; generation expansion**

**2012: Transitioning from rate case-driven growth to deploying free cash flow**



## **NVE 3.0: Building Shareholder Value**

Less need for major rate relief  
Stable earnings, improving ROE  
Well positioned strategically

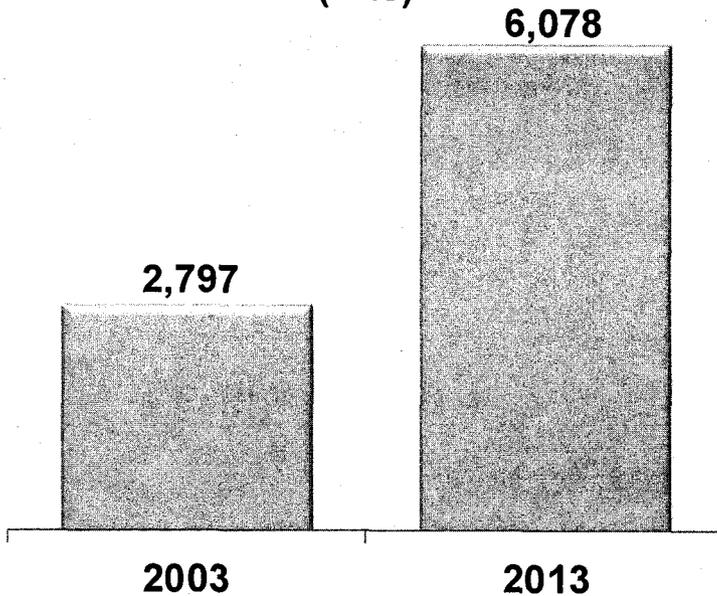
Customer-focused philosophy  
Empowering employees  
Reasonable, constructive regulation  
Sound corporate governance

Economic recovery  
Rate base additions  
Free cash flow  
Earnings guidance

# Less Need for Major Rate Relief

Generation Expansion Cycle Complete

NV-Owned Generation  
(MW)



**Additions:**

2006:	Lenzie	1,102
	Harry Allen Peaker	80
	Silverhawk	390
2008:	Tracy	541
	Clark Peakers	619
	Higgins	530
2010:	Goodsprings	5
2011:	Harry Allen	484
2013:	Reid Gardner #4	232
	<b>Retirements and other</b>	<b>(702)</b>
	<b>Net Capacity Added</b>	<b>3,281</b>

All capacity additions are now in rates except for Reid Gardner #4.

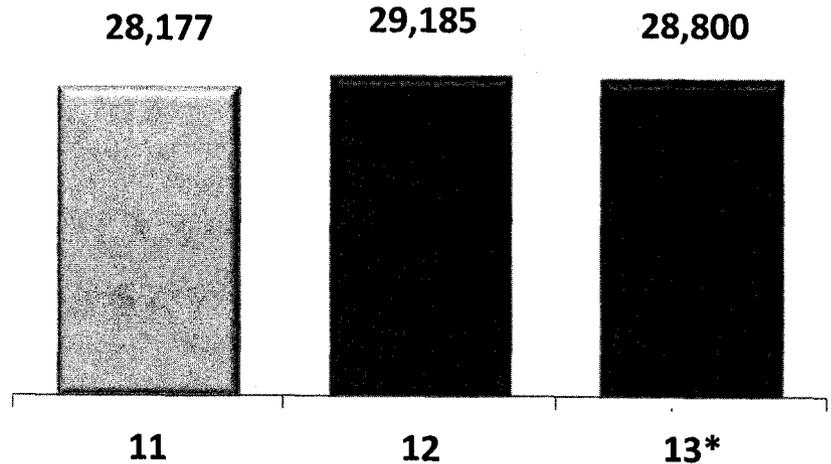


# Stable Earnings, Improving ROE

## Current Environment

- Entering a period of more stable earnings
  - No major projects
  - Slow demand growth
- Lower-risk earnings drivers:
  - Cost control
  - Lower interest expense

### MWh Sales (000's; retail)

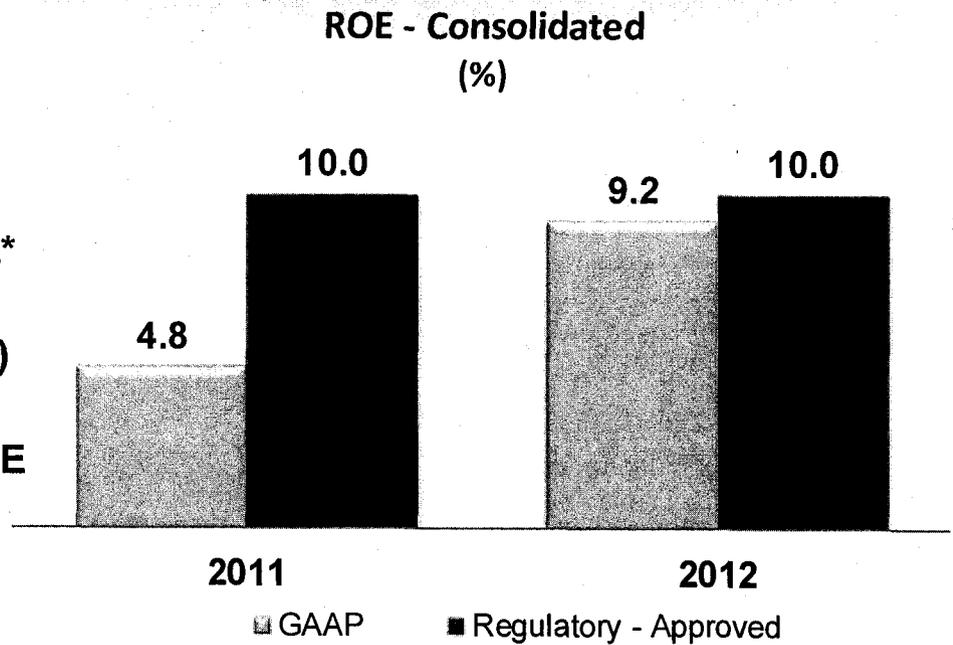


\* Weather normalized. Source: NVE-S IRP and NVE-N 2<sup>nd</sup> amendment forecast approved by PUCN in December 2012.

# Stable Earnings, Improving ROE

## Decreased Regulatory Lag

- GAAP ROE reflects:
  - Holding company debt
  - Goodwill\*
  - Lenzie regulatory asset\*
  - Deferred energy\*  
(Western energy crisis)
- Regulatory ROE should be much closer to allowed ROE



\*For further details, see Note 3 of the 2012 Form 10-K

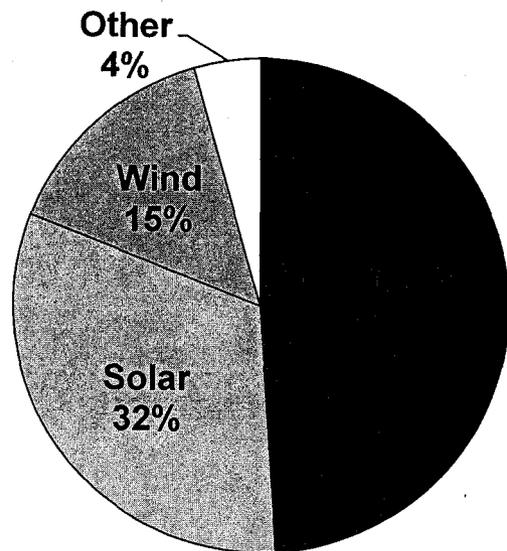


# Well Positioned Strategically

Located in Desert Southwest

- Ideal for solar, geothermal energy
- Renewable portfolio standard: 25% by 2025
- Potential to export to CA, AZ

**Committed Renewable Energy Projects**  
41 Projects, 1,044 MW  
as of Feb. 2013



## **NVE 3.0: Building Shareholder Value**

Less need for major rate relief  
Stable earnings, improving ROE  
Well positioned strategically

Customer-focused philosophy  
Empowering employees  
Reasonable, constructive regulation  
Sound corporate governance

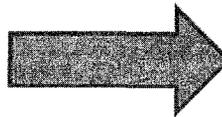
Economic recovery  
Rate base additions  
Free cash flow  
Earnings guidance

## Customer-Focused Philosophy

### Customer-Focused

- Safe, reliable, affordable energy
- Empowering customers with self-managed usage

Reasonable,  
Constructive  
Regulation

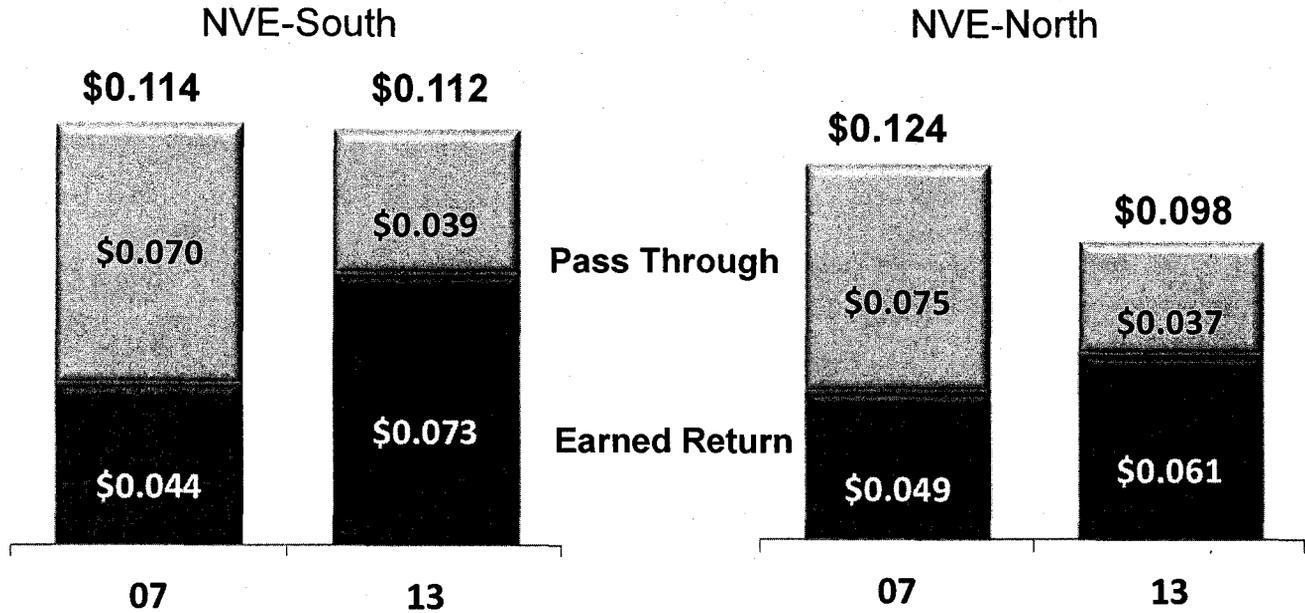


Building  
Shareholder  
Value

# Customer-Focused Philosophy

Affordable Energy

Residential Rate; \$/kWh



Increased revenues contributing to earnings with minimal impact to customers

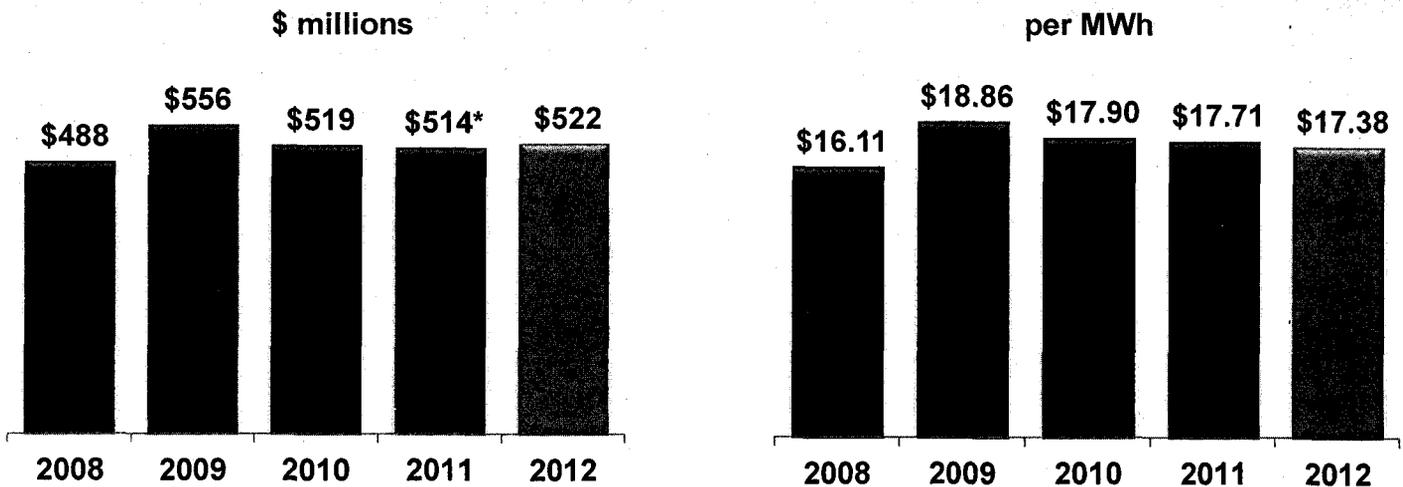


# **Empowering Employees**

Improve Processes, Reduce Costs, Enhance Performance

- **Continuously improve processes**
  
- **Control O&M expense**
  - **NV Energize**
  - **Operating highly efficient generating facilities**
  
- **ON Line joint dispatch savings**

## Controlling O&M Expense



O&M expense remains virtually flat, excluding an unusual item\* in 2011, and is down 2% per MWh.



\* Includes \$8.0 million benefit from termination cost reversal

## Reasonable, Constructive Regulation

### Supports Stable Earnings

- December 2011 rate decision was fair, reasonable
- IRP process reduces risk; major projects approved in advance
- Quarterly fuel and DEAA adjustments should stabilize cash flows
- Allowed to recover lost revenue
- Potential for higher equity ratio

\$ billions

Rate base = \$7.2

- 44% equity = \$3.2
- 50% equity = \$3.7



# **Sound Corporate Governance**

## **Aligned with Investors' Interests**

- **Incentive-based, pay for performance compensation**
  - **“Say on pay” won resounding approval**
  - **Incentive compensation clawback policy**
- **Stock ownership guidelines for board, senior officers**
- **9 of 10 directors are independent**
- **Separated Chairman and CEO roles**
- **Eliminated classified board**
- **Adopted majority voting, reduced supermajority provisions**
- **Responded to all shareholder proposals**



## **NVE 3.0: Building Shareholder Value**

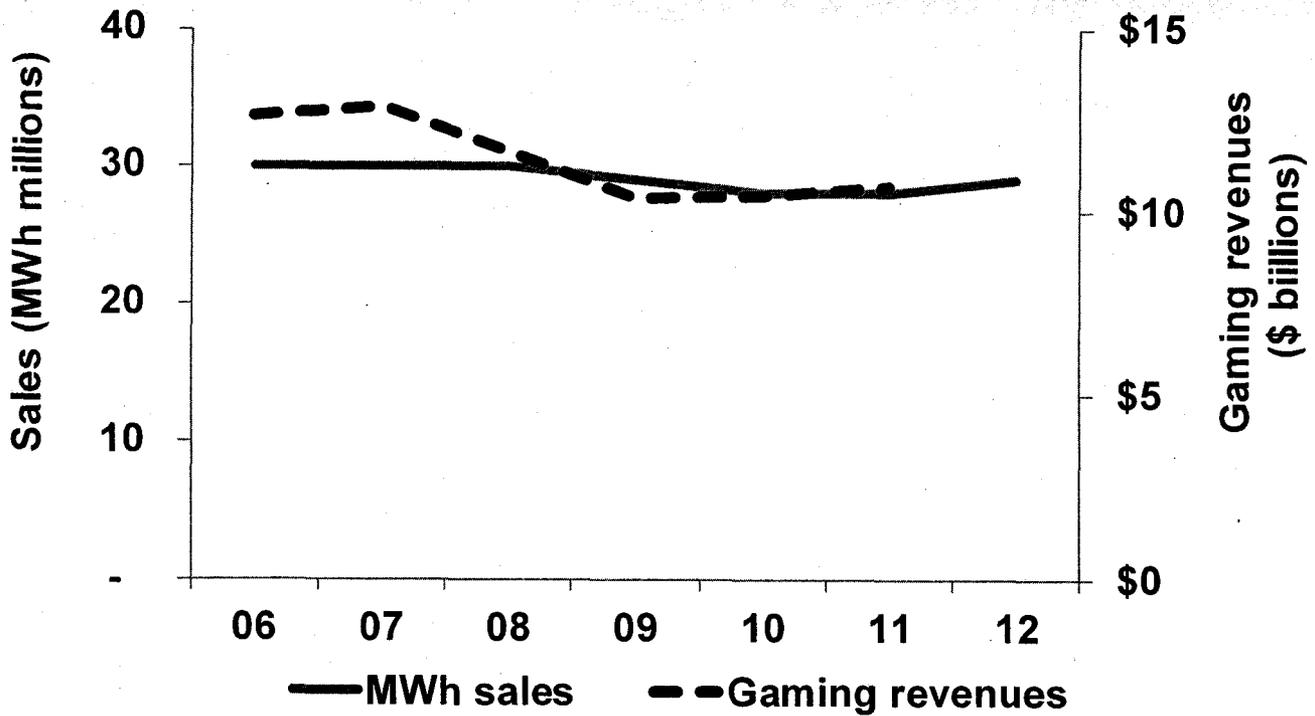
Less need for major rate relief  
Stable earnings, improving ROE  
Well positioned strategically

Customer-focused philosophy  
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Rate base additions  
Free cash flow  
Earnings guidance

# Nevada Economy

MWh Sales Remained Stable While State Gaming Revenues Fell

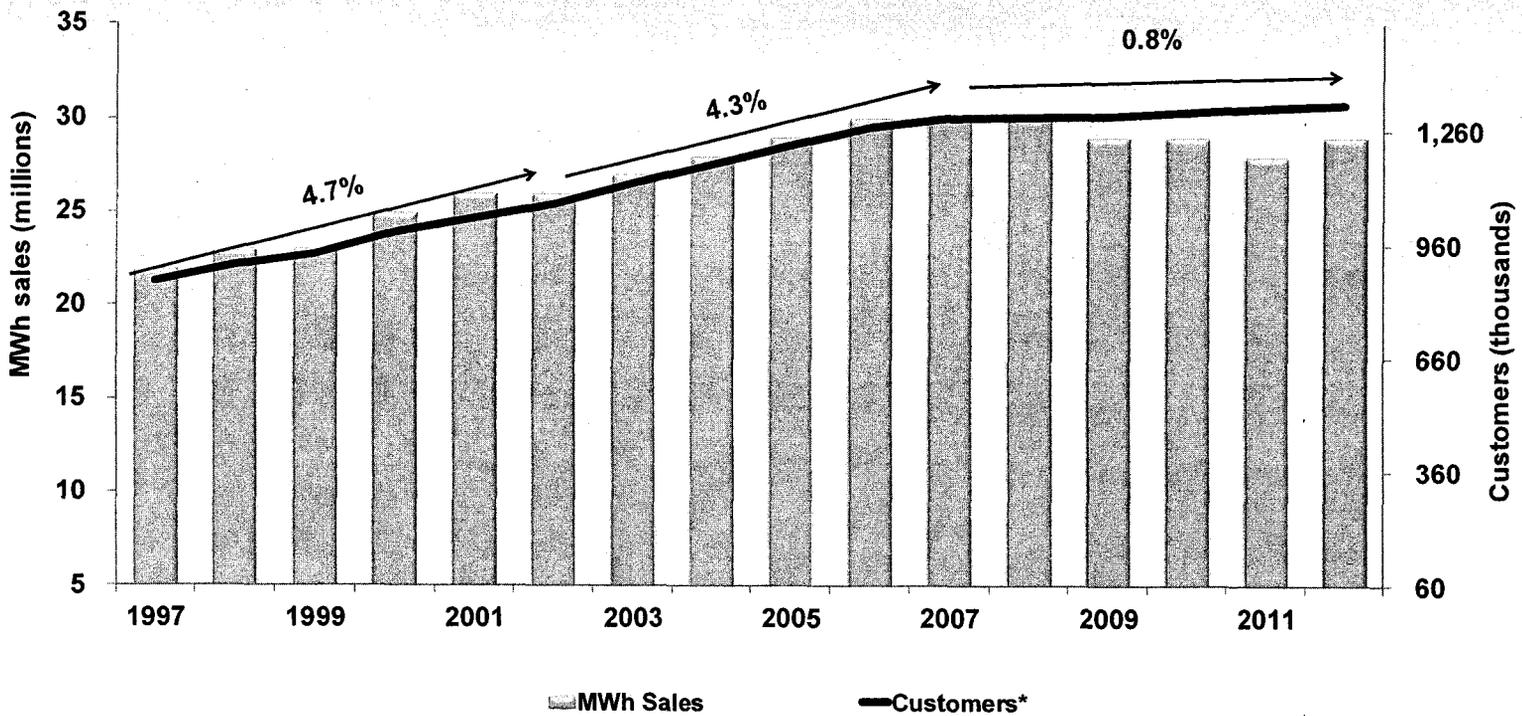


Gaming and tourism are not a primary driver of demand for electricity in the near/intermediate term.



# Customer Growth

Recession Slowed Growth, Did Not Reduce Customer Base



Key economic indicators for NVE include unemployment, job growth, population and low-use accounts



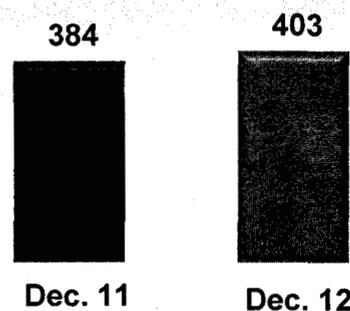
\* Excludes water and CA electric customers

# Economic Recovery

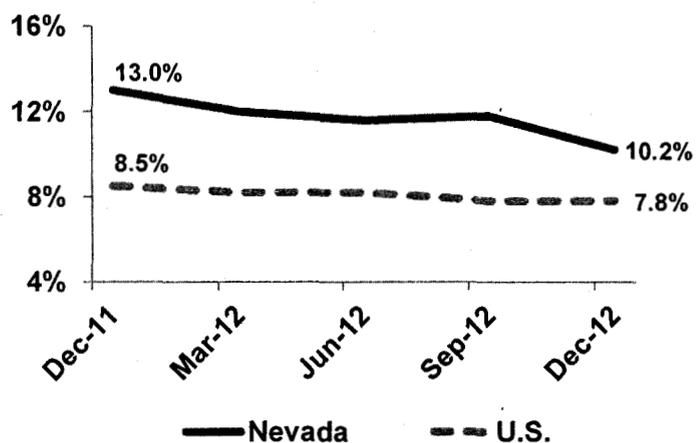
## Slow Recovery Expected in Nevada

- Well positioned for near-flat demand
  - Controlling O&M
  - Reducing debt
  - Returning capital to shareholders
- Infrastructure in place for future growth
- Upside when recovery commences

New Housing Permits



Unemployment

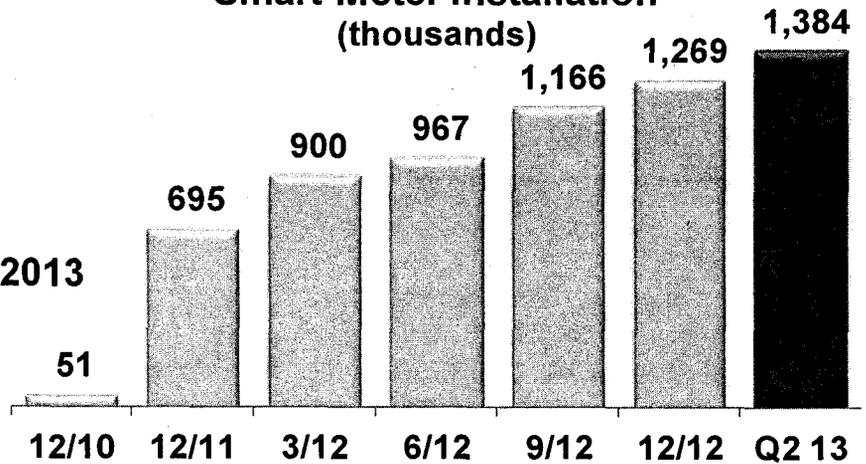


# Rate Base Additions

Included in Capital Expenditures Forecast

- **NV Energize:**
  - \$177 million
  - Completion: Q2 2013
- **ON Line:**
  - \$138 million (excludes AFUDC)
  - Completion: year – end 2013

**NV Energize  
Smart Meter Installation  
(thousands)**

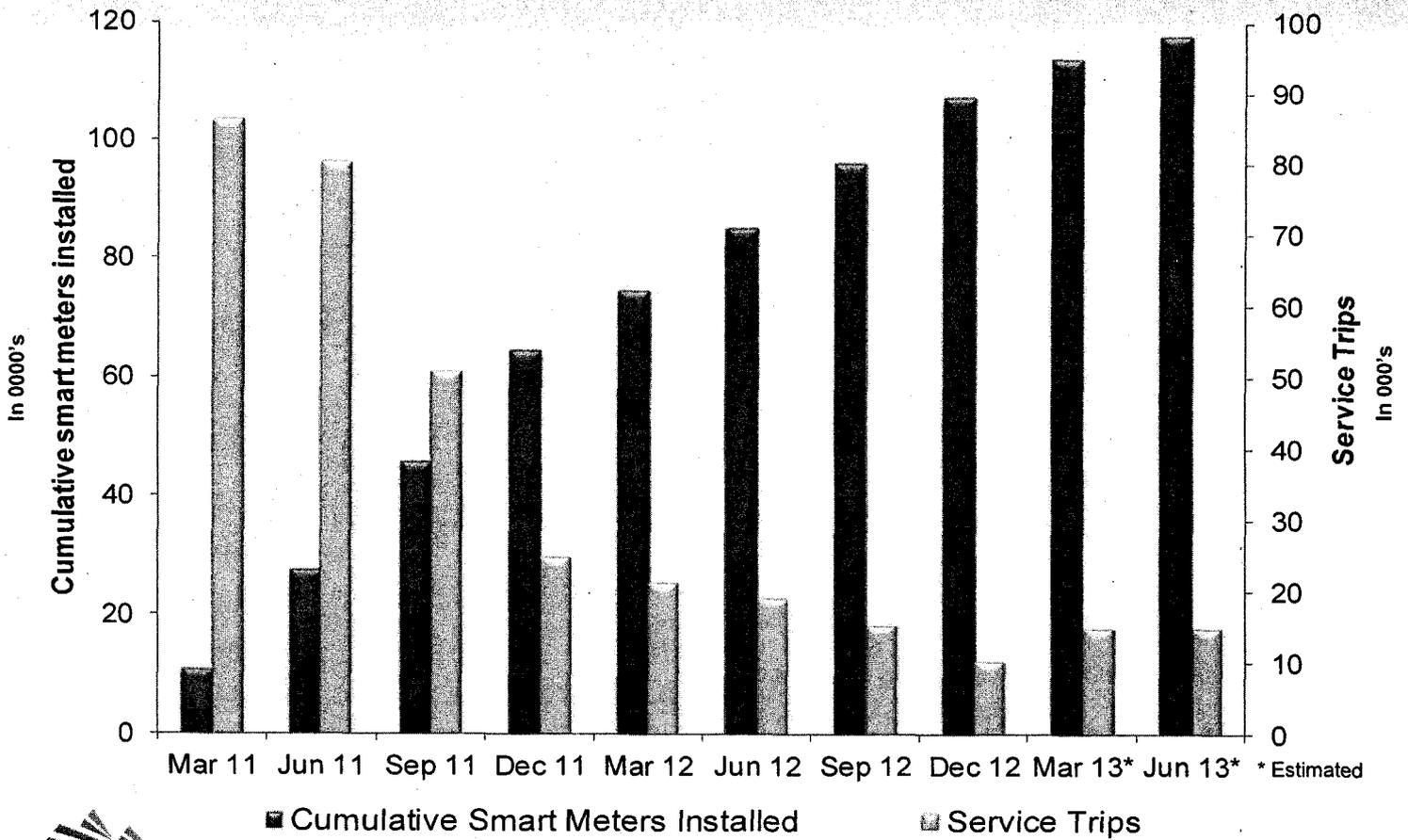


2013 O&M reduction: \$12 million



# Smart Meters: Service Efficiency

Eliminated over 1 million service trips

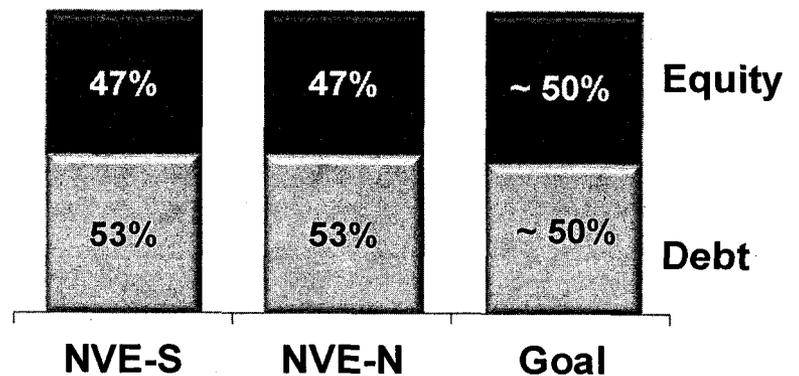


# Free Cash Flow

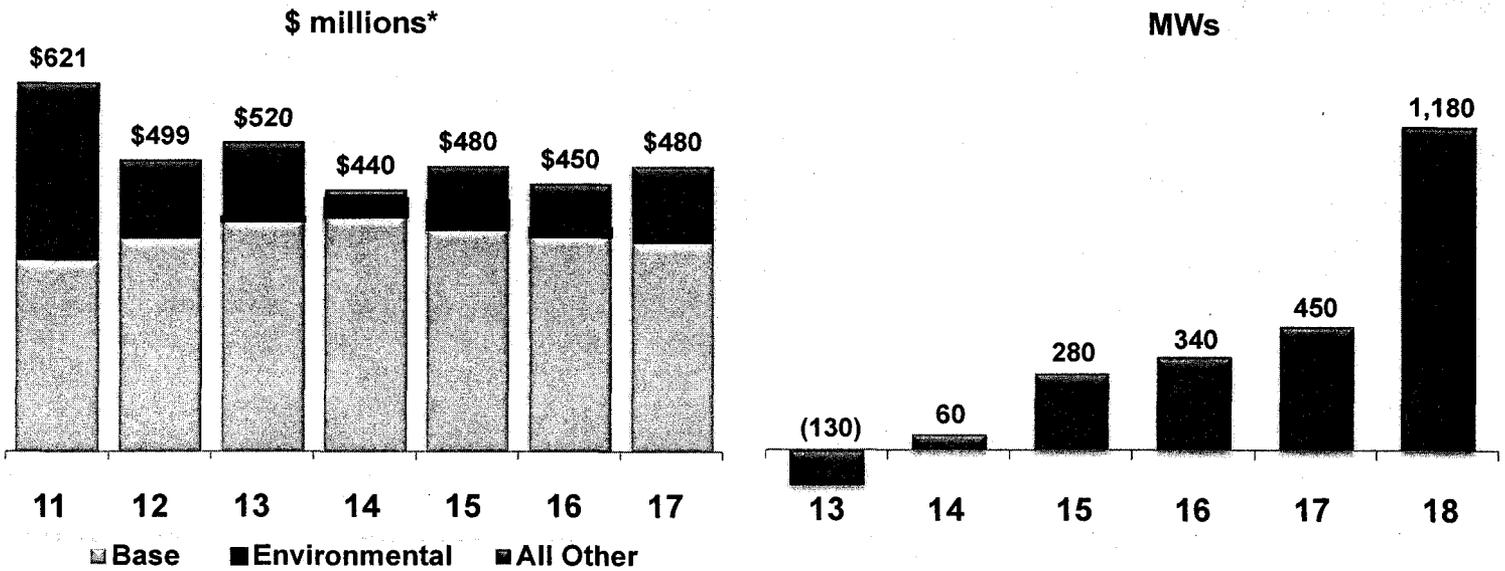
## Strengthen Balance Sheet

### Capital Structure As of Dec. 31, 2012

- Goal: achieve more balanced capital structure over next several years
- Strengthens balance sheet before next growth cycle
- Top priority: utilities' balance sheets



# Capital Expenditures and Capacity Needs



\* Gross expenditures, including contributions in aid of construction, debt AFUDC, and net salvage. Forecast includes environmental expenditures for which the company plans to seek PUCN approval.

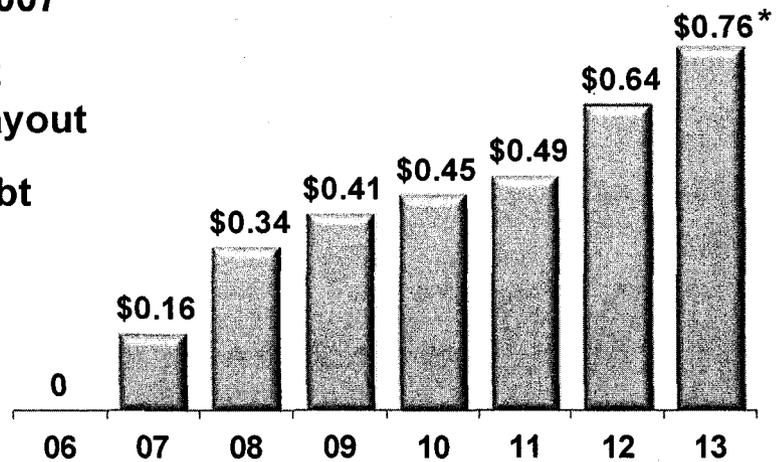


# Free Cash Flow

Committed to Dividend Growth

Dividends Paid per Share

- Doubled quarterly dividend since 2007
- Expect to increase dividends about 10% annually until reach 60-65% payout
- Can be achieved while reducing debt and considering investments



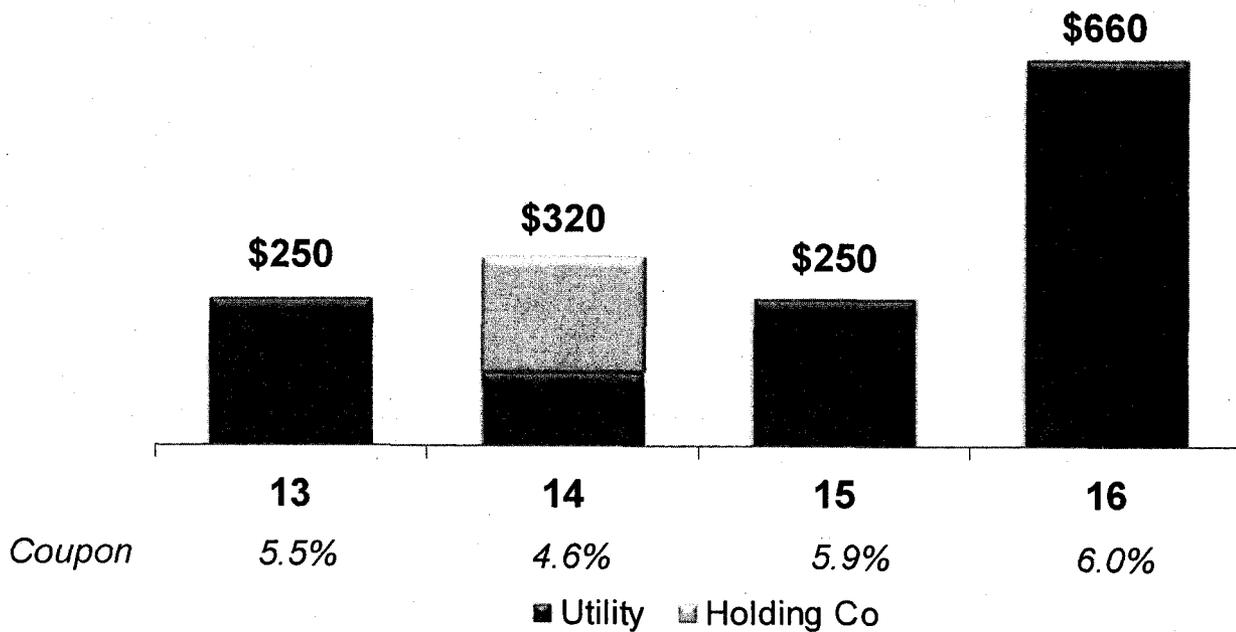
Building shareholder value by returning capital

\* Annualized



# Debt Maturities

\$ millions



2013 excludes \$98 million of NVE-South variable rate debt that must be redeemed prior to ON Line commercial operation date. 2014 coupon is weighted average.



## 2013 Earnings Guidance

**EPS: \$1.25 - \$1.35**

### Assumptions

Weather	Normal
Customers	1.2% increase
Gross margin	Down; customer growth offset by normal weather
O&M expense	Flat; Reid Gardner costs, NV Energize savings
Depreciation	Increase; Reid Gardner costs, capital expenditures
Interest expense	Decrease; 2012 refinancings, debt reduction
Interest expense - regulatory	Decrease as reduce over-collections

Guidance is based on ongoing, normalized EPS for 2013, excluding unexpected events.



For further information see forward-looking statements and risk factors in 2011 SEC Form 10-K and Form 10-Q for periods ended March 31, 2012, June 30, 2012 and September 30, 2012.

# Why Invest in NV Energy?

Focused on Building Value for Shareholders

## The Road Ahead

**Nevada economy**

**Dividends**

**Debt**

**Equity ratio**

**ROE vs. allowed**

**Need for rate relief**

**Guidance**

**slow growth =  
return capital to shareholders**



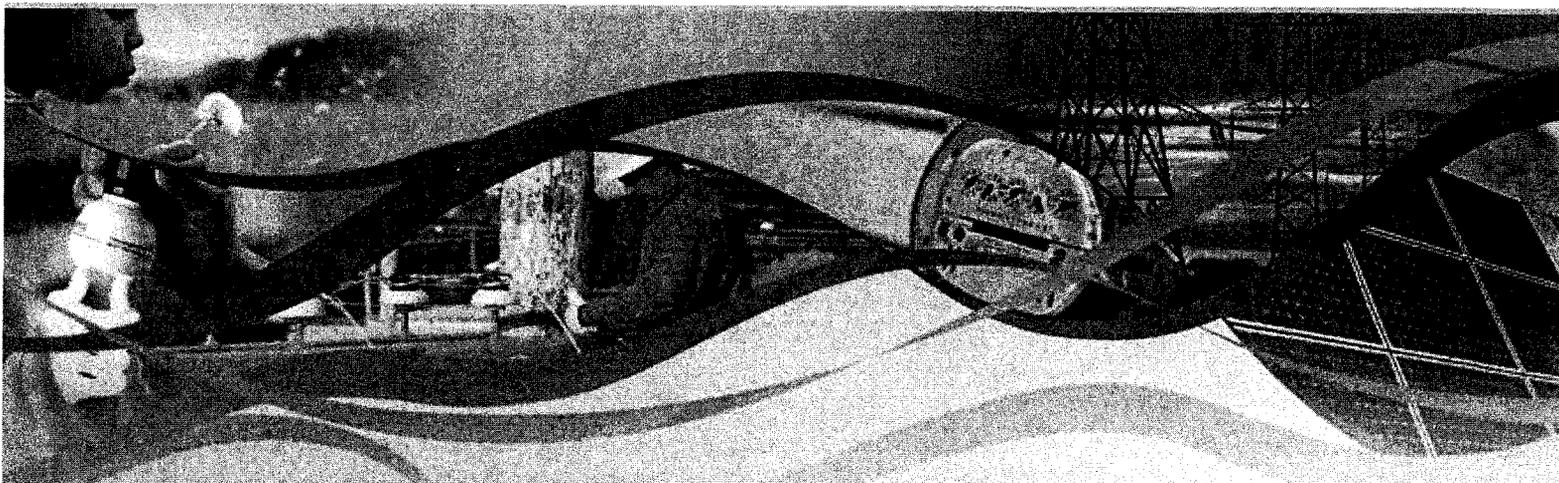
**aspiration: 50%**

**spread narrowing**



**initiated**



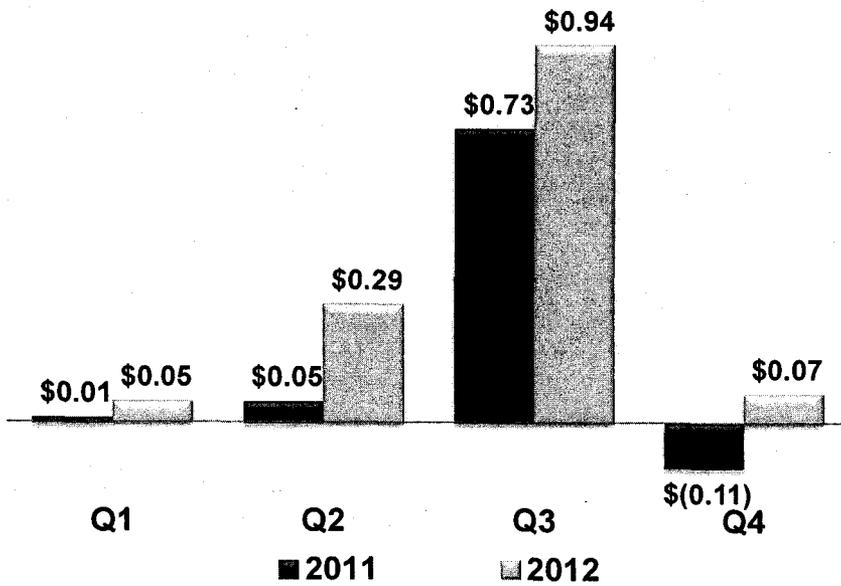


# Supplemental Material



# Earnings Per Share (diluted)

Third Quarter is Key to 12-Month Results



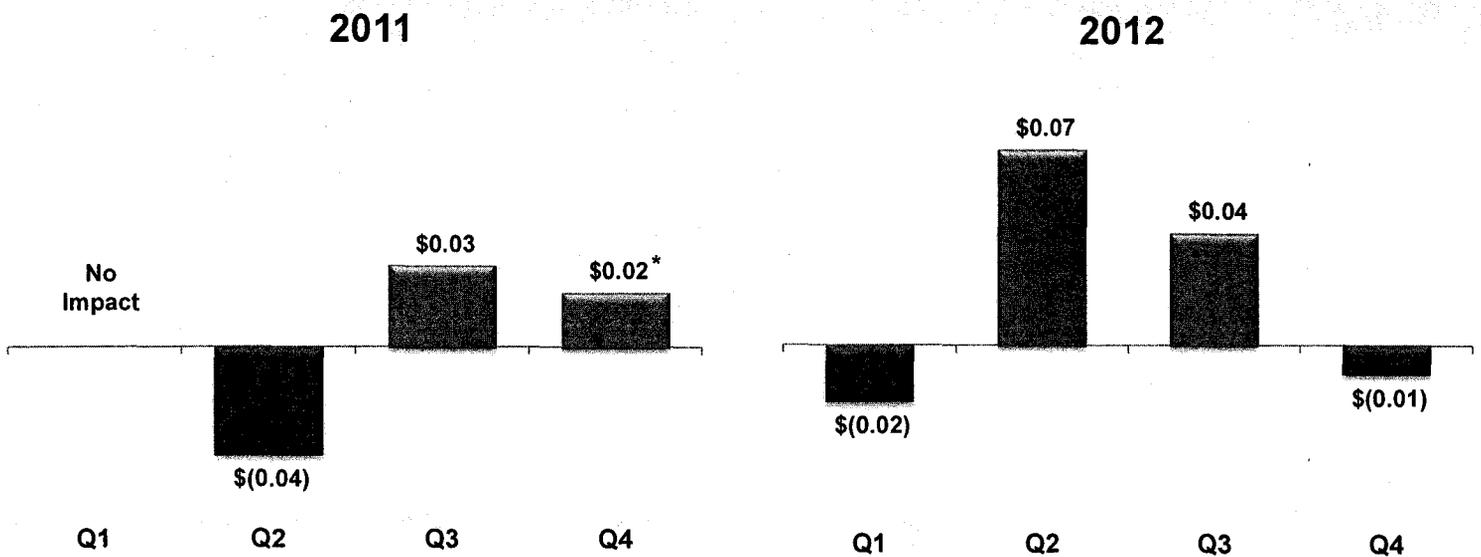
	Q1	Q2	Q3	Q4	Year
2007	\$0.07	\$0.12	\$0.69	\$0.02	\$0.89
2008	0.10	0.15	0.64	(0.01)	0.89
2009	(0.09)	0.08	0.78	0.02	0.78
2010	(0.01)	0.16	0.75	0.06	0.96
2011	0.01	0.05	0.73	(0.11)	0.69
2012	0.05	0.29	0.94	0.07	1.35

Summer weather in southern Nevada can significantly affect financial results.



# EPS Impact of Weather: Actual vs. Normal

Estimates; normal = 20-year average



Weather adversely affected earnings by \$0.01 in Q4 2012 compared to historically normal conditions.



\* Revised

# Solid Financial Position

## Utilities Rated Investment Grade

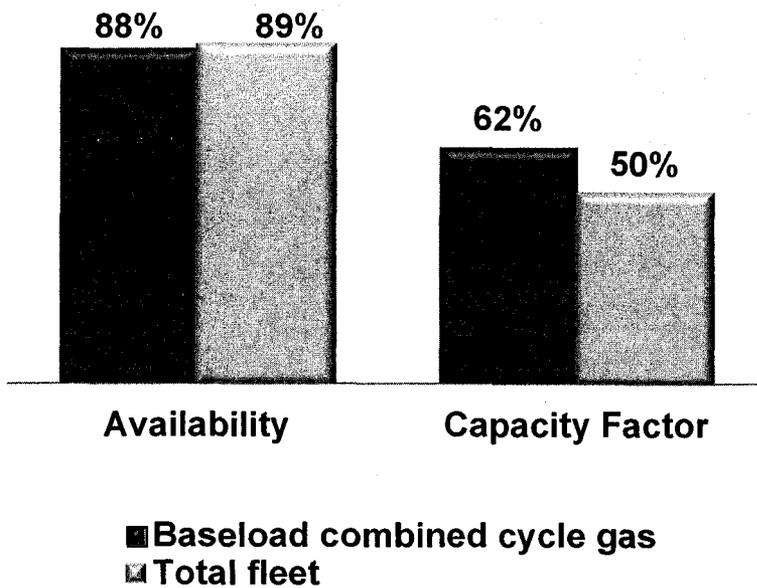
	<u>Standard &amp; Poor's</u>	<u>Moody's</u>	<u>Fitch</u>
Latest Ratings Review	20-Feb-13	18-May-12	14-May-12
<b>Nevada Power</b>			
Corporate Credit Rating/Issuer Rating	BBB-	Baa3	BB+
Senior secured debt	BBB+	Baa1	BBB
Outlook	Stable	Stable	Positive
<b>Sierra Pacific Power</b>			
Corporate Credit Rating/Issuer Rating	BBB-	Baa3	BB+
Senior secured debt	BBB+	Baa1	BBB
Outlook	Stable	Stable	Positive
<b>NV Energy</b>			
Corporate Credit Rating/Issuer Rating	BBB-	Ba1	BB
Senior unsecured debt	BB+	Ba1	BB
Outlook	Stable	Stable	Positive



# Energy Supply

Capacity Utilization Reflects Highly Seasonal Demand

2012 Plant Performance



**Efficient, Low-Cost Generation**

NV's Tracy and Higgins units were the lowest-cost producers in the Electric Utilities Cost Group in 2011 and 2009 respectively.



# Low Environmental Compliance Exposure

## New, Efficient Gas Plants

Total Sources  
2012  
31.4 million MWh

- 8 of 9 coal units scrubbed
- Low-mercury coal

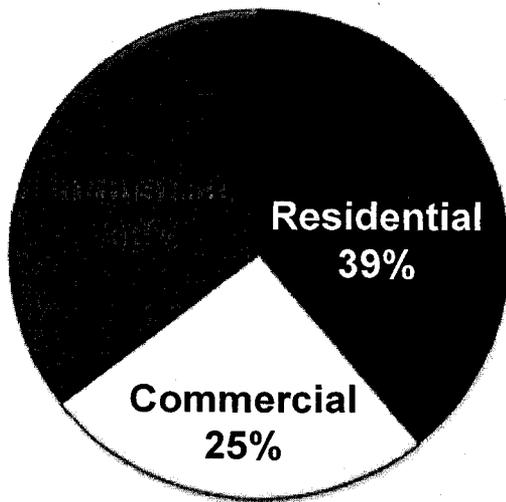


\* Does not include energy efficiency and conservation, demand side management and other programs which contribute to renewable portfolio standard compliance.

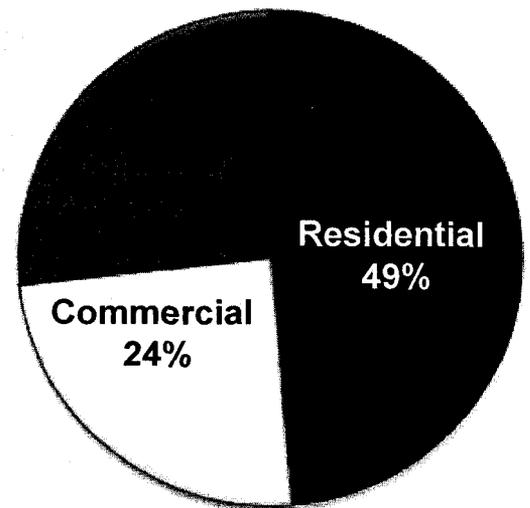
# Energy Delivery

2012 Retail

**Sales**  
29.2 million MWh

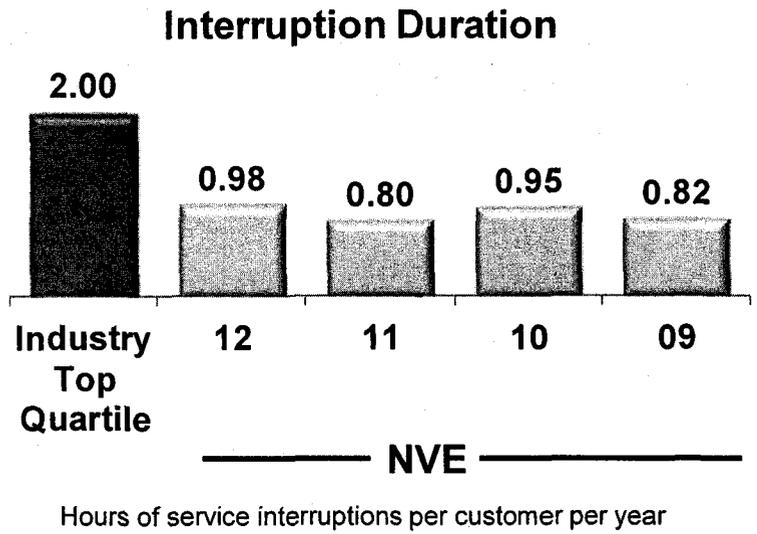
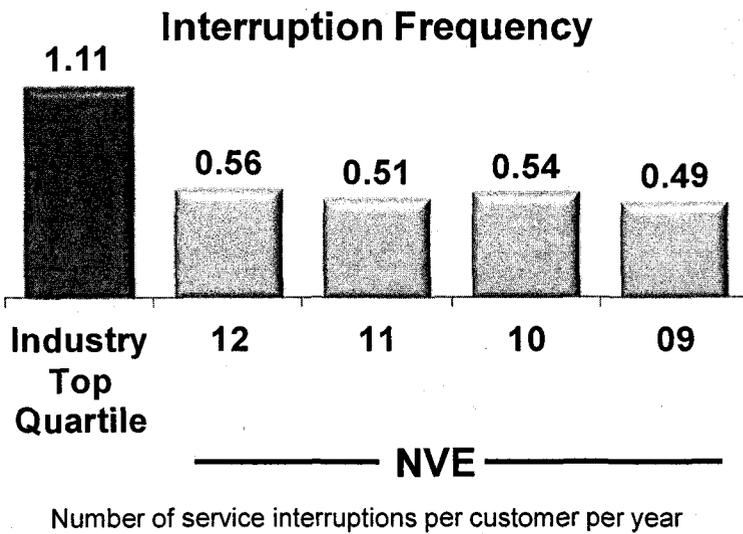


**Electric Revenues**  
\$2.7 billion



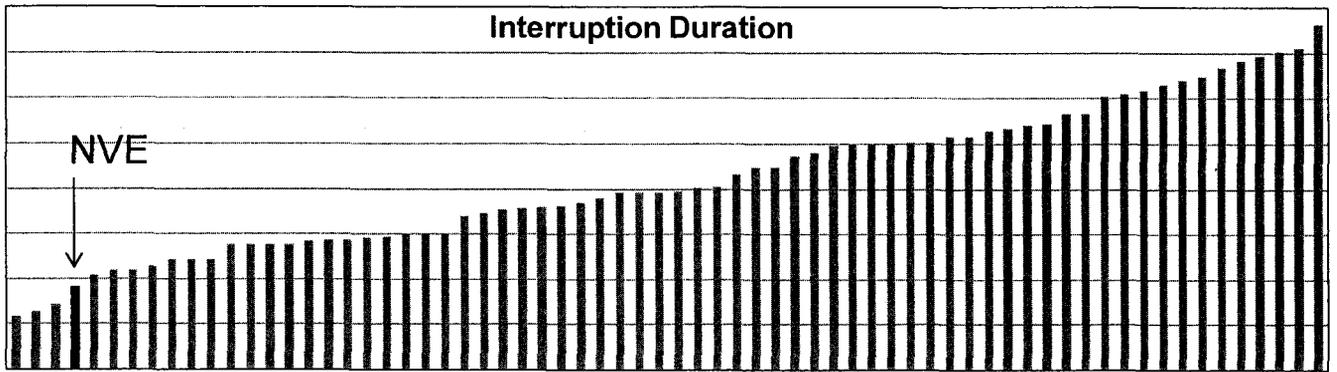
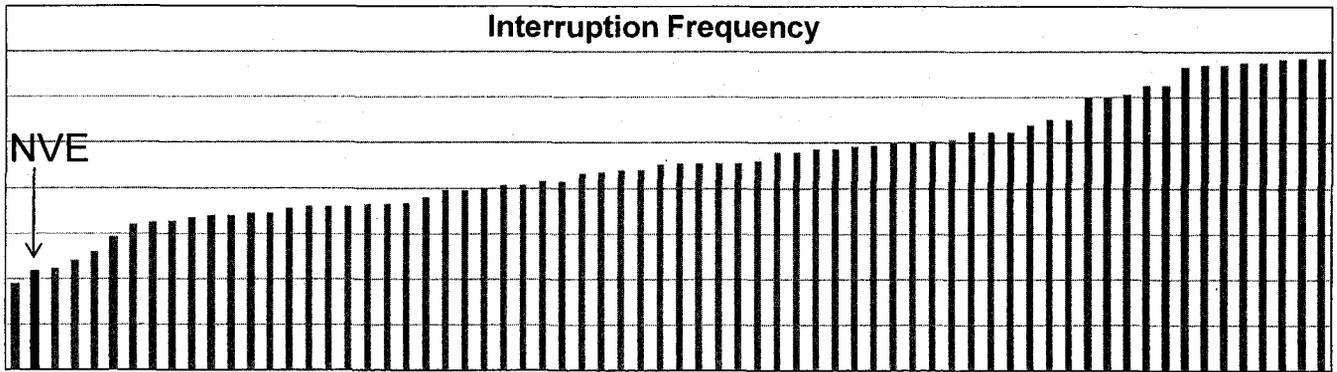
# Top-Ranked Reliability

Reliability metrics were the best in the nation in 2009 and ranked in the top decile in 2010 through 2012.



# Top-Ranked Reliability

Both reliability metrics ranked in the top decile among surveyed companies in 2011



## The NVE Transformation

	<u>2003</u>	<u>2012</u>	<u>% Increase/ (Decrease)</u>
Self-Owned Generation (MW)	2,797	6,078	117%
O&M (Cents/kWh)	\$2.76	\$2.43	-12%
Effective Rate (Cents/kWh) <sup>1</sup>	\$9.77	\$9.84	1%
Fuel Rate (Cents/kWh) <sup>2</sup>	\$7.23	\$3.90	-46%
Non-Fuel Rate (Cents/kWh) <sup>3</sup>	\$2.54	\$5.94	134%
Gross Margin (\$ millions)	\$845	\$1,745	106%
Effective Cost of Debt	9.5%	6.0%	-37%
Price per Share (Year-ended)	\$7.34	\$18.14	147%
Dividend per Share	---	\$0.64	---
Credit Ratings (S&P/Moody's)			
NVE-S	BB,B+ / Ba2	BBB+ / Baa1	
NVE-N	BB,B+ / Ba2	BBB+ / Baa1	

1 Defined as Total Retail Electric Revenue/Total Retail Electric Sales

2 Defined as Total Fuel & Purchased Power Costs + Deferred Energy/Total Retail Electric Sales

3 Defined as Total Retail Electric Revenue - (Fuel & Purchased Power Costs + Deferred Energy)/Total Retail Electric Sales



# Energy Strategy: Evolution

## 2007-2011

Increase energy efficiency, conservation

Expand renewable energy initiatives and investments

Add new generation and transmission

## Results

- Significant energy savings
- Included in portfolio standard
- DOE grant
- Over 900,000 smart meters
- "Lost revenue" recovery
  
- Met portfolio standard while minimizing costs
- Invested in Goodsprings
- Expanded to include out-of-state and PEC-only purchases
  
- Achieved energy independence through acquisitions, construction
- Obtained ON Line approval

## The Road Ahead

EMPOWER CUSTOMERS THROUGH MORE FOCUSED ENERGY EFFICIENCY PROGRAMS

PURSUE COST-EFFECTIVE RENEWABLE ENERGY INITIATIVES

OPTIMIZE GENERATION EFFICIENCY AND TRANSMISSION

ENGAGE EMPLOYEES TO IMPROVE PROCESSES, REDUCE COSTS, ENHANCE PERFORMANCE



## **Energy Strategy**

Empower Customers through More Focused Energy Efficiency Programs

- **Can contribute 1/4 of Portfolio Standard**
- **PUCN approved recovery of lost revenues, program costs**
- **NV Energize: smart meters for all customers**
  - **Estimated total cost: \$316 million**
    - Federal grant: \$139 million
    - NVE's portion: \$177 million
  - **2013 Project of the Year Award (PowerGrid International)**



# **Energy Strategy**

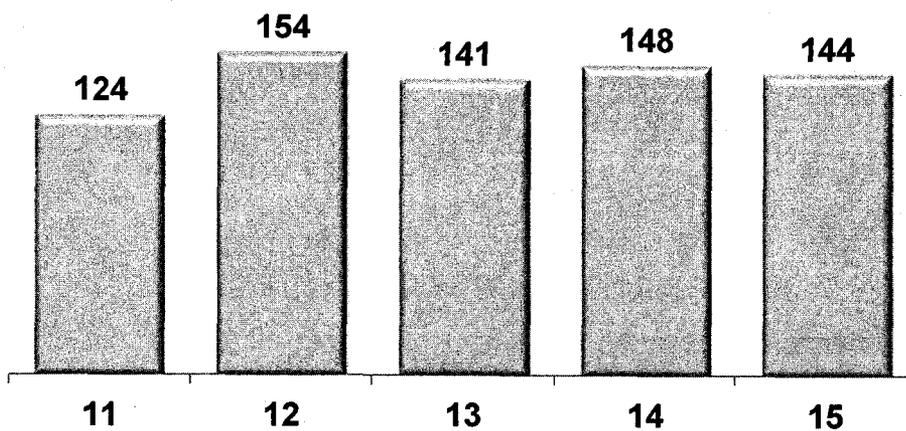
## **Pursue Cost-Effective Renewable Energy Initiatives**

- **Complying with portfolio standard cost effectively**
  - 15% in 2011 - 2012
  - 25% by 2025
- **Find investments that add value for customers, shareholders**
- **Expand transmission capability for export**

# Nevada Portfolio Standard

Escalating Renewable Energy Requirement: 25% by 2025

Percentage of Standard Achieved



Standard % of retail sales	
2011-12	15%
2013-14	18%
2015-19	20%
2020-24	22%
2025 and after	25%

Up to 1/4 of standard can be met from demand side management, energy efficiency and conservation



# Committed Renewable Energy Projects

1,044 Megawatts

Geothermal		MW
1	Beowawe Power	17.7
2	Brady	24
3	Desert Peak	25
4	Dixie Meadows	51
5	Faulkner 1	49.5
6	Galena 2	13
7	Galena 3	26.5
8	Homestretch	5.6
9	Jersey Valley	22.5
10	McGinness Hills	48
11	Richard Burdette	26
12	Salt Wells	23.6
13	San Emidio	11.8
14	Soda Lake I	3.6
15	Soda Lake II	19.5
16	Steamboat Hills	14.6
17	Steamboat IA	2
18	Steamboat II	13.4
19	Steamboat III	13.4
20	Stillwater 2	47.2
	Stillwater 2 Photovoltaic Addition	22
21	Tuscarora (aka Hot Sulphur Springs 2)	32

Solar		MW
22	FRV Spectrum	30
23	Las Vegas Valley Water District (Six Projects)	3
24	Mountain View	20
25	Nellis AFB Solar Star	13.2
26	Nevada Solar One	69
27	RV Apex	20
28	Searchlight	17.5
29	Silver State	52
30	Crescent Dunes	110

Biomass/Methane		MW
31	CC Landfill Energy	12
32	Lockwood Renewable Energy	3.2
33	Sierra Pacific Industries	10
34	Truckee Meadows Water Reclamation	0.8

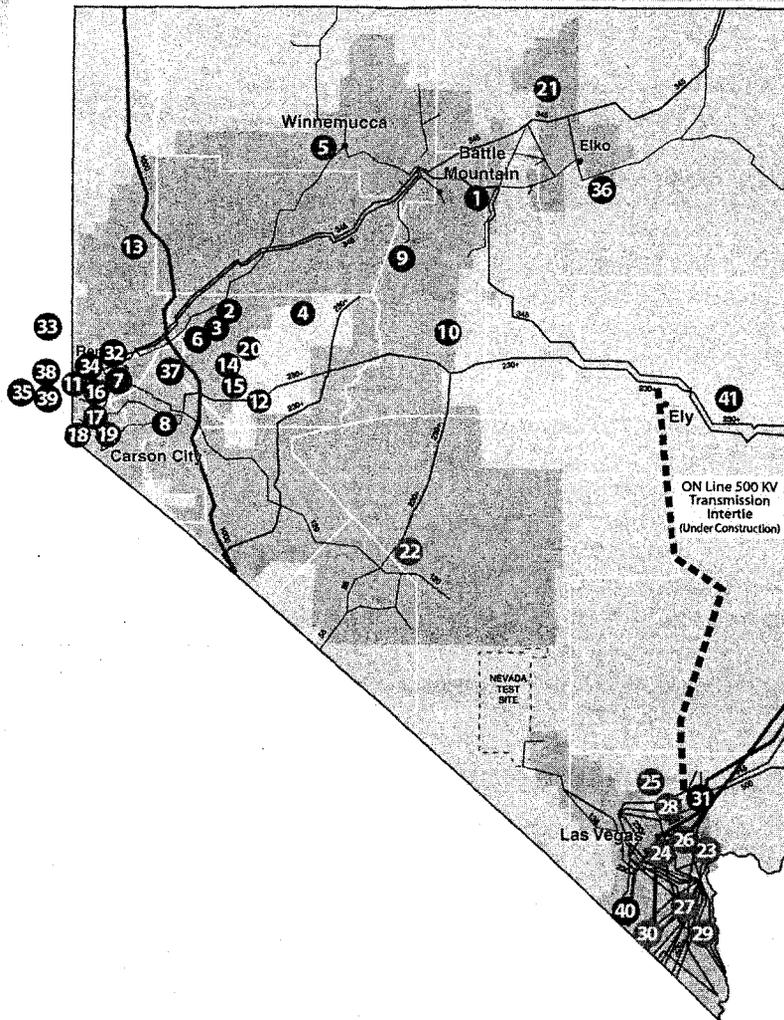
Hydro		MW
35	Fleish	2.3
36	Hooper	0.8
37	Truckee Carson Irrigation District	5
38	Verdi	2.2
39	Washoe	2.2

Waste Heat Recovery		MW
40	Goodsprings	7.5

Wind		MW
41	Spring Valley	151.8



# Renewable Energy Projects

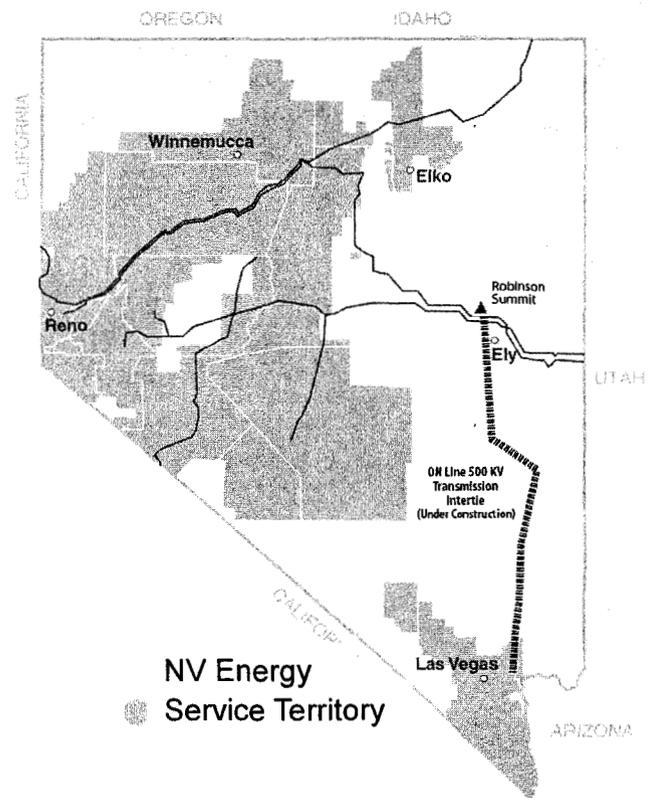


# Energy Strategy

Optimize Generation Efficiency and Transmission

## ON Line

- 235 mile 500 kV line will interconnect northern, southern systems
- Permits economic fleet dispatch
- Increases reliability, key for renewable energy development
- Estimated cost: \$552 million. NVE's ownership portion: \$138 million (excludes AFUDC)
- Joint project: 25% NVE, 75% Great Basin Transmission
- Expected in-service date: no later than Dec. 31, 2013



## Key Regulatory Metrics

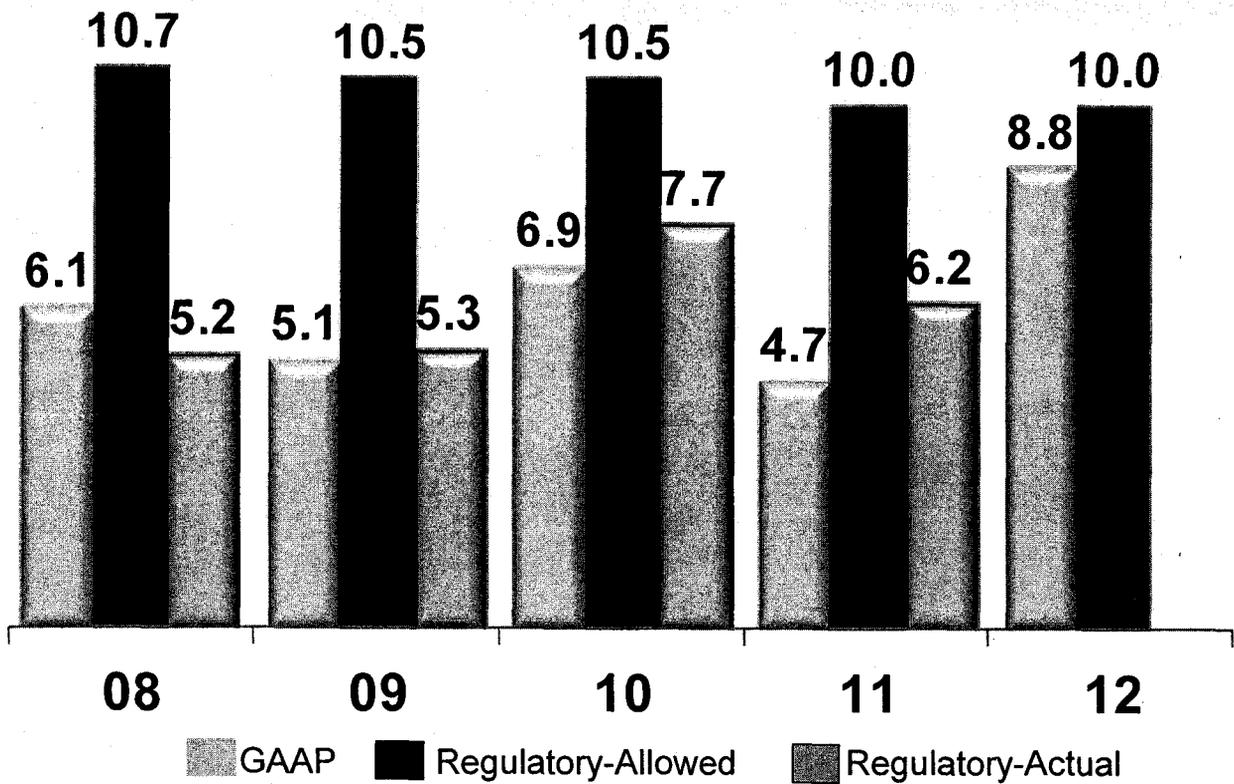
	<u>Total</u>	<u>NVE – S</u>	<u>NVE – N</u>
Rate base (\$ billions, 12/31/2012)	\$7.16	\$5.30	\$1.87
Equity ratio:			
GAAP actual, 12/31/2012	41.5%	46.7%	46.8%
Regulatory - allowed	44.3%*	44.4%	44.1%
Last general rate order		12/23/2011	12/23/2010

\* Total is weighted based on rate base.



# Return on Equity: NVE South

Percent

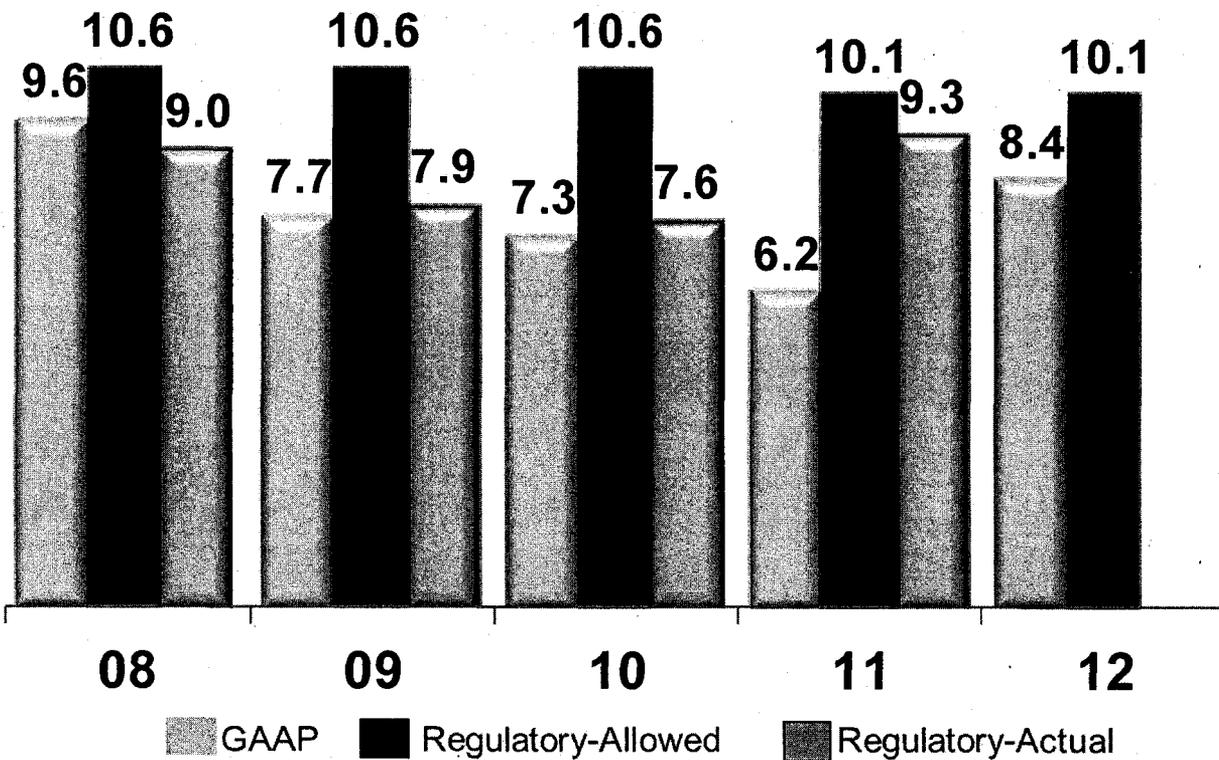


General rate increases: July 2009, January 2010



# Return on Equity: NVE North

Percent



Last general rate increase: January 2011

## Key Expected Regulatory Filings and Decisions through 2014

**Merger  
Filing**

To be filed approximately 6 months before completion of ON Line

**General  
Rate Filing  
NVE - N**

June 2013 (current statutory schedule)

**General  
Rate Filing  
NVE - S**

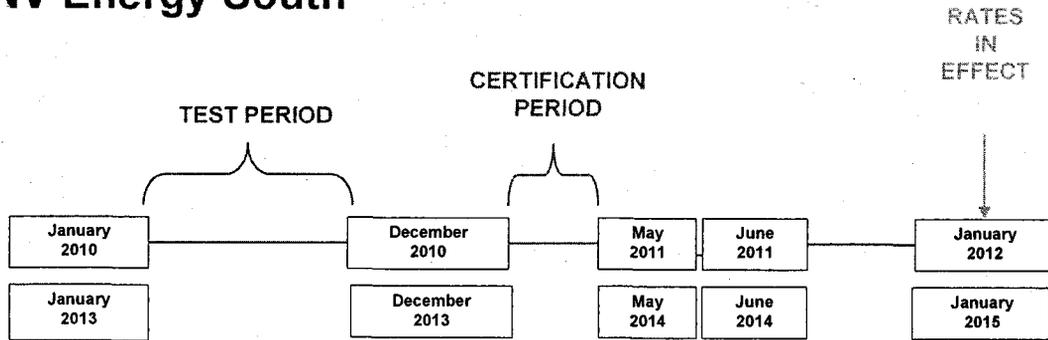
June 2014 (current statutory schedule)

In merger filing, NVE will request that the resulting merged company general rate filing follow the NVE-S schedule.

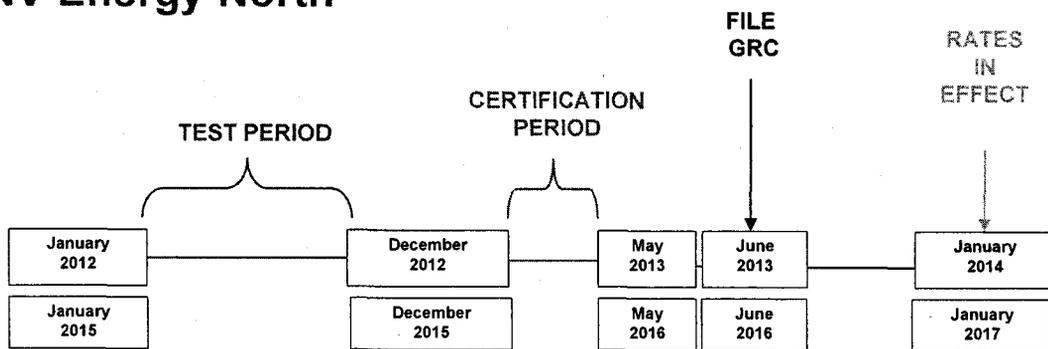


# Rate Case Filing Calendar

## NV Energy South



## NV Energy North



# Public Utility Commission of Nevada

Three Commissioners; Four-Year Terms; Appointed by the Governor



**Alaina Burtenshaw (D)**

Began Serving: January 2010

Term Ends: September 30, 2013

Appointed Chairman February 2011. Administrative law background. Has been with the PUCN since 1992, served as Staff Counsel and Assistant Staff Counsel.



**Rebecca Wagner (R)**

Began Serving: September 2006

Term Ends: September 30, 2015

Served as Energy Advisor to the Governor and Director of the Nevada State Office of Energy. Previously worked for Nevada-based geothermal company.



**David Noble (NP)**

Began Serving: August 2011

Term Ends: September 30, 2016

Has been with the PUCN since 1997 as administrative attorney, assistant staff counsel, assistant general counsel, and hearings officer. Also served as Commission liaison to Nevada Legislature on utility and administrative matters over last six regular legislative sessions.



# Regulatory Matters Fact Sheet

February 22, 2013

Issue	Timeline	Docket
<b>FERC Rate Case</b>	<ul style="list-style-type: none"> <li>October 31, 2012: filed for new transmission and ancillary rates.</li> <li>Requested revenue increase: \$14.5 million.</li> <li>Certain new rates suspended by FERC order to June 1.</li> </ul>	SPPC = ER13-247-000 NPC = ER13-255-000
<b>Annual DEAA, REPR, EEIR, EEPR and TRED Adjustment</b>	<ul style="list-style-type: none"> <li>March 1, 2013: will make annual filings.</li> <li>Hearings to review costs for prudence and reasonableness expected in late summer.</li> <li>New rates effective October 1, 2013.</li> </ul>	TBD
<b>Merger Filing</b>	<ul style="list-style-type: none"> <li>To be filed about six months prior to completion of ON Line.</li> </ul>	TBD

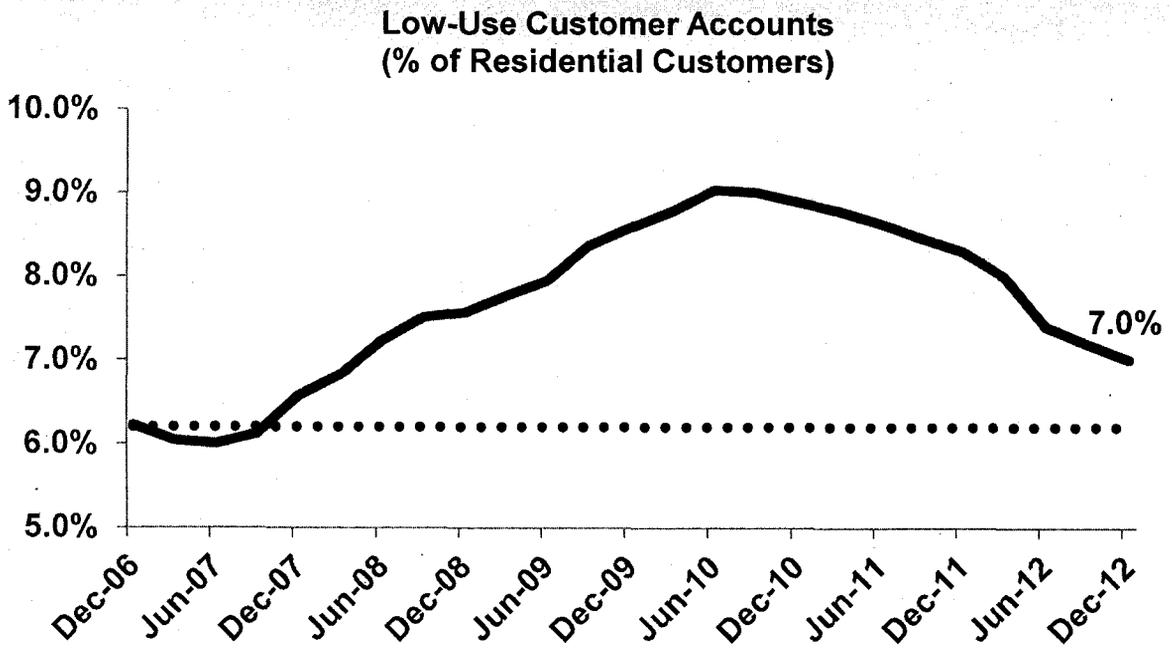
**For more information, contact Investor Relations:**

Max Kuniansky: 702.402.5627 or [mkuniansky@nvenergy.com](mailto:mkuniansky@nvenergy.com)



# Low-Use Accounts Declining

NV Energy-South



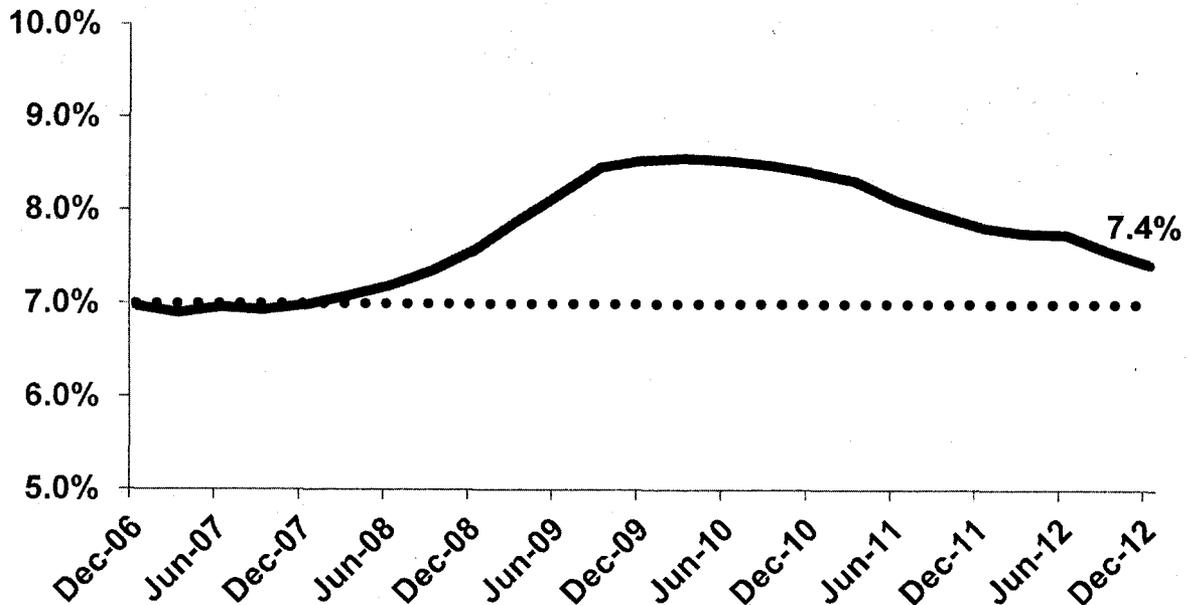
Low-use accounts, a proxy for vacant homes, have decreased to levels not seen since 2008.



# Low-Use Accounts Declining

NV Energy-North

Low-Use Customer Accounts  
(% of Residential Customers)



The trend in low-use accounts remains favorable.



# Southern Nevada Economy

Slow, Steady Recovery

Indicator	December 2011	December 2012	
Total Employment (thousands)	814.9	830.6	↑
New Residents (Drivers License Count)	4,646	4,461	↓
Active Residential Electric Meters	740,702	750,212	↑
Median Existing Home Price	\$ 110,000	\$ 139,900	↑
Median New Home Price	\$ 212,250	\$ 218,114	↑
Existing Home Sales	4,641	4,083	↓
New Home Sales	374	617	↑



1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 BOB STUMP, Chairman

GARY PIERCE

4 BRENDA BURNS

BOB BURNS

5 SUSAN BITTER SMITH

6 IN THE MATTER OF THE APPLICATION OF  
7 VALENCIA WATER COMPANY – TOWN DIVISION  
8 FOR THE ESTABLISHMENT OF JUST AND  
9 REASONABLE RATES AND CHARGES FOR UTILITY  
SERVICE DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE OF ARIZONA

Docket No. W-01212A-12-0309

10 IN THE MATTER OF THE APPLICATION OF  
11 GLOBAL WATER – PALO VERDE UTILITIES  
12 COMPANY FOR THE ESTABLISHMENT OF JUST AND  
13 REASONABLE RATES AND CHARGES FOR UTILITY  
14 SERVICE DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. SW-20445A-12-0310

15 IN THE MATTER OF THE APPLICATION OF WATER  
16 UTILITY OF NORTHERN SCOTTSDALE, INC. FOR A  
RATE INCREASE

Docket Nos. W-03720A-12-0311

17 IN THE MATTER OF THE APPLICATION OF  
18 WATER UTILITY OF GREATER TONOPAH FOR  
19 THE ESTABLISHMENT OF JUST AND REASONABLE  
20 RATES AND CHARGES FOR UTILITY SERVICE  
21 DESIGNED TO REALIZE A REASONABLE RATE OF  
RETURN ON THE FAIR VALUE OF ITS PROPERTY  
THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-02450A-12-0312

22 IN THE MATTER OF THE APPLICATION OF  
23 VALENCIA WATER COMPANY – GREATER  
BUCKEYE DIVISION FOR THE ESTABLISHMENT OF  
24 JUST AND REASONABLE RATES AND CHARGES FOR  
25 UTILITY SERVICE DESIGNED TO REALIZE A  
REASONABLE RATE OF RETURN ON THE FAIR  
26 VALUE OF ITS PROPERTY THROUGHOUT THE  
STATE OF ARIZONA

DOCKET NO. W-02451A-12-0313

**REBUTTAL TESTIMONY  
OF MATTHEW ROWELL**

27

1 IN THE MATTER OF THE APPLICATION OF  
2 GLOBAL WATER – SANTA CRUZ WATER COMPANY  
3 FOR THE ESTABLISHMENT OF JUST AND  
4 REASONABLE RATES AND CHARGES FOR UTILITY  
5 SERVICE DESIGNED TO REALIZE A REASONABLE  
6 RATE OF RETURN ON THE FAIR VALUE OF ITS  
7 PROPERTY THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-20446A-12-0314

5 IN THE MATTER OF THE APPLICATION OF  
6 WILLOW VALLEY WATER COMPANY FOR THE  
7 ESTABLISHMENT OF JUST AND REASONABLE  
8 RATES AND CHARGES FOR UTILITY SERVICE  
9 DESIGNED TO REALIZE A REASONABLE RATE OF  
10 RETURN ON THE FAIR VALUE OF ITS PROPERTY  
11 THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-1732A-12-0315

**REBUTTAL TESTIMONY  
OF MATTHEW ROWELL**

11 Rebuttal Testimony  
12 of  
13 Matthew Rowell  
14 in Support of Settlement Agreement

15 August 30, 2013  
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**TABLE OF CONTENTS**

I. Introduction.....1  
II. WUGT’s Proposed Revenue Requirement Under the Settlement Agreement .....1  
III. NWP’s Position on WUGT’s Proposed Revenue Requirement .....3

1 **I. Introduction.**

2 **Q. Please state your name.**

3 A. My name is Matthew Rowell.

4  
5 **Q. By whom are you employed and what is your position?**

6 A. I am a managing member of Desert Mountain Analytical Services (“DMAS”), a consulting  
7 firm specializing in utility regulatory matters. In that capacity I have provided testimony  
8 regarding various utility regulatory issues before the Arizona Corporation Commission  
9 (“Commission”).

10

11 **Q. Are you the same Matthew Rowell that previously provided Direct Testimony in the**  
12 **above listed dockets?**

13 A. Yes.

14

15 **Q. What is the purpose of your Rebuttal Testimony?**

16 A. This Rebuttal Testimony responds to assertions made by intervener witnesses Richard  
17 Jellies and Alexander Ibhade Igwe on behalf of New World Properties, Inc. (“NWP.”)  
18 Specifically, this testimony responds to assertions made by these witnesses regarding the  
19 appropriateness of the proposed rates for the Water Utility of Greater Tonopah  
20 (“WUGT.”).

21

22 **II. WUGT’s Proposed Revenue Requirement Under the Settlement Agreement.**

23 **Q. Please describe the revenue requirement proposed for WUGT in the Settlement**  
24 **Agreement.**

25 A. The Settlement Agreement provides that the CIAC imputation for WUGT imposed in  
26 Global’s last rate case should be reversed. This will result in the rate base Global  
27 recommended for WUGT in its application: \$2,206,816. However, the Settlement

1 Agreement also provides that WUGT's rates will not be set based on that rate base.  
2 Rather, WUGT's rates are proposed to be set based on an appropriate operating margin  
3 without regard to WUGT's rate base. This is spelled out in Section 6.3.4.3 of the  
4 Settlement Agreement.

5  
6 **Q. Please explain the concept of the operating margin.**

7 A. The operating margin is defined as the ratio of operating income to revenue.

$$8 \quad OM = OI/R$$

9 So a company with \$10 of operating income and \$100 of revenue would have a 10%  
10 operating margin. In utility ratemaking the operating margin is often used to develop the  
11 revenue requirement in instances where the utility has insufficient rate base.

12  
13 **Q. How does the revenue requirement for WUGT proposed in the Settlement Agreement**  
14 **compare to the revenue requirement that would result if the impact of the CIAC**  
15 **imputation reversal was included in rates?**

16 A. If the required rate of return of 7.5% proposed in the Settlement Agreement is applied to  
17 WUGT's restored rate base a revenue increase in excess of \$560,000 would result. This is  
18 almost double the operating margin based revenue increase of \$199,983 recommended in  
19 the Settlement.

20  
21 **Q. What other ratemaking provisions does section 6.3.4.3 of the Settlement Agreement**  
22 **contain?**

23 A. Section 6.3.4.3 of the Settlement Agreement provides that:

24 "In subsequent rate cases filed within the 8 year phase-in referred to in Section 1.5  
25 and 6.3.2.3 above, the rates for Tonopah will be reviewed from both a rate of return  
26 and 10 percent operating margin perspective. The rates will be set based upon  
27 whichever method results in the lowest rates for Tonopah customers."

1 This provision makes it very likely that for any rate case filed by WUGT before the end of  
2 2021 the impact on rates of the CIAC reversal will not be realized.

3  
4 **III. NWP's Position on WUGT's Proposed Revenue Requirement.**

5 **Q. What position did NWP's expert accounting witness take regarding WUGT's rates?**

6 A. Mr. Alexander Igwe filed Direct Testimony on behalf of NWP on July 8, 2013. In that  
7 testimony at page 5 Mr. Igwe stated:

8 "NWP is only opposed to that portion of the rate increase resulting from WUGT's  
9 proposal to reverse the Commission-ordered imputation of ICFA funds as CIAC.  
10 NWP believes that it is only appropriate for the Commission to allow WUGT to  
recover its cost of service and a reasonable return on its investor-provided capital."

11 In other words Mr. Igwe testified that WUGT should be allowed to recover its expenses  
12 and a reasonable profit but should not be able to earn a return on the rate base that will  
13 result from reversing the CIAC imputation imposed in the last case.

14  
15 **Q. Isn't that exactly what section 6.3.4.3 of the Settlement Agreement provides?**

16 A. Yes. That is exactly what section 6.3.4.3 of the Settlement agreement provides.

17  
18 **Q. If section 6.3.4.3 of the Settlement Agreement provides the exact ratemaking  
19 treatment that NWP requested, why is NWP still raising issues regarding WUGT's  
20 revenue requirement?**

21 A. In his Direct Testimony filed on behalf of NWP on August 21, 2013 Mr. Richard Jellies  
22 addresses the issue of WUGT's rates. At page 9 of that testimony Mr. Jellies indicates that  
23 he is concerned about "the perception of potential purchasers of NWP's properties." It  
24 appears that Mr. Jellies would like lower rates in WUGT's service territory so that it will  
25 be easier to sell houses there. He is asking the Commission to set rates below WUGT's  
26 cost of service in order to make the houses NWP will eventually build appear more  
27 attractive. This is inconsistent with any accepted ratemaking practice. Historically, setting

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rates artificially low in new developments has created substantial problems for the Commission and the utilities that it regulates.

**Q. Please summarize your testimony.**

A. The Settlement Agreement provides that the revenue requirement for WUGT is set on an operating margin basis. This results in a revenue requirement well below what would result if WUGT's revenue requirement reflected a return on its rate base. This is exactly the treatment that NWP's accounting witness recommended in pre-filed testimony. NWP's opposition to the Settlement Agreement's recommended revenue requirement for WUGT appears to be motivated by a desire to keep rates artificially low in order to facilitate new home sales. That position is inconsistent with any accepted ratemaking standards and has proven problematic in the past. For these reasons, concerns raised by NWP regarding WUGT's revenue requirement should be afforded little weight.

**Q. Does this conclude your testimony?**

A. Yes.