



0000153360

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

2014 MAY 13 P 1:24

AZ CORP COMMISSION
DOCKET CONTROL

COMMISSIONERS

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

ORIGINAL

IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, LLC DOING
BUSINESS AS JOHNSON UTILITIES
COMPANY, FOR APPROVAL OF SALE
AND TRANSFER OF ASSETS AND
CONDITIONAL CANCELLATION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. WS-02987A-13-0477

NOTICE OF FILING REBUTTAL
TESTIMONY OF DANIEL HODGES

Johnson Utilities, L.L.C. ("Johnson Utilities") files herewith the Rebuttal Testimony of Daniel Hodges in the above-captioned docket. Johnson Utilities contacted the Hearing Division of the Arizona Corporation Commission on May 12, 2014, and received a one day extension of time to file Mr. Hodges' rebuttal testimony.

RESPECTFULLY submitted this 13th day of May, 2014.

BROWNSTEIN HYATT FARBER SCHRECK LLP

Jeffrey W. Crockett, Esq.
One East Washington Street, Suite 2400
Phoenix, Arizona 85004
Attorneys for Johnson Utilities, L.L.C.

ORIGINAL and thirteen (13) copies of the foregoing
filed this 13th day of May, 2014, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

MAY 13 2014

DOCKETED BY

Brownstein Hyatt Farber Schreck, LLP
One East Washington, Suite 2400
Phoenix, AZ 85004

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 COPY of the foregoing hand-delivered
2 this 13th day of May, 2014, to:

3 Lyn Farmer, Chief Administrative Law Judge
4 Hearing Division
5 ARIZONA CORPORATION COMMISSION
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8 Janice Alward, Chief Counsel
9 Legal Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Steve Olea, Director
14 Utilities Division
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 Copy of the foregoing mailed and e-mailed
19 this 13th day of May, 2014, to:

20 Daniel Pozefsky, Chief Counsel
21 RESIDENTIAL UTILITY CONSUMER OFFICE
22 1110 West Washington Street
23 Phoenix, Arizona 85007
24 E-mail: dpozefsky@azruco.gov

25 Craig A. Marks
26 CRAIG A. MARKS, PLC
27 10645 N. Tatum Blvd., Suite 200-676
28 Phoenix, Arizona 85028
E-mail: Craig.Marks@azbar.org

Michele Van Quathem
RYLEY CARLOCK & APPLEWHITE
One North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4417
E-mail: MVQ@rcalaw.com

James E. Mannato, Town Attorney
TOWN OF FLORENCE
P.O. Box 2670
775 N. Main Street
Florence, Arizona 85232-2670
E-mail: James.Mannato@florenceaz.gov

1 William J. Sims III
2 SIMS MURRAY, LTD
3 2020 N. Central Avenue, Suite 670
4 Phoenix, Arizona 85004
5 E-mail: wjsims@sismurray.com

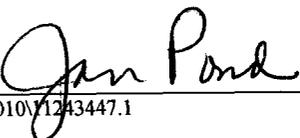
6 William H. Anger
7 ENGELMAN BERGER, P.C.
8 3636 N. Central Avenue, Suite 700
9 Phoenix, Arizona 85012
10 E-mail: wha@eblawyers.com

11 Karen Christian
12 30836 North Orange Blossom Circle
13 San Tan Valley, Arizona 85143
14 E-mail: kchristi@gmx.com

15 Todd J. Hubbard
16 30989 North Dry Creek Way
17 San Tan Valley, Arizona 85143
18 E-mail: toddjhubbard@yahoo.com

19 Alden L. Weight
20 928 West Desert Canyon Drive
21 San Tan Valley, Arizona 85143
22 Alden_weight@msn.com

23 Steve Pratt
24 65 E. Macaw Ct.
25 San Tan Valley, Arizona 85143
26 E-mail: Steve-pratt@cox.net

27
28
29 
30 _____
31 014676001071243447.1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP – Chairman
GARY PIERCE
BRENDA BURNS
ROBERT BURNS
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION
OF JOHNSON UTILITIES, LLC DOING
BUSINESS AS JOHNSON UTILITIES
COMPANY, FOR APPROVAL OF THE
SALE AND TRANSFER OF ASSETS AND
CONDITIONAL CANCELLATION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. WS-02987A-13-0477

REBUTTAL TESTIMONY OF DANIEL HODGES
MAY 13, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I. INTRODUCTION.....1
II. PURPOSE OF REBUTTAL TESTIMONY.....1
III. RUCO—ROBERT B. MEASE.....1
IV. PULTE HOME CORPORATION—DANIEL BONOW.....9
V. SAN TAN HEIGHTS HOMEOWNERS ASSOCIATION—KARL
GEHRING.....10
VI. STEVE PRATT.....11

1 **I. INTRODUCTION.**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Daniel Hodges. My business address is 5230 East Shea Boulevard,
4 Suite 200, Scottsdale, Arizona 85254.

5 **Q. HAVE YOU PREVIOUSLY PROVIDED PRE-FILED TESTIMONY IN**
6 **THIS DOCKET?**

7 A. Yes. I previously provided Direct Testimony dated March 28, 2014, on behalf of
8 Johnson Utilities, LLC (“Johnson Utilities” or the “Company”).

9 **II. PURPOSE OF REBUTTAL TESTIMONY.**

10 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 A. On May 9, 2014, Utilities Division Staff (“Staff”) filed the Direct Testimony of
12 Robert G. Gray, the Residential Utility Consumer Office (“RUCO”) filed the
13 Direct Testimony of Robert B. Mease, Pulte Home Corporation (“Pulte”) filed the
14 Direct Testimony of Daniel Bonow, the San Tan Heights Homeowners
15 Association (“Association”) filed the Direct Testimony of Karl Gehring, and
16 Steve Pratt filed Direct Testimony on behalf of himself and intervenors Todd
17 Hubbard, Alden Weight and Karen Christian. The purpose of my rebuttal
18 testimony is to address certain statements of the witnesses for RUCO, Pulte and
19 the Association, and of Mr. Pratt.

20 **III. RUCO—ROBERT B. MEASE.**

21 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF ROBERT B. MEASE**
22 **ON BEHALF OF RUCO IN THIS DOCKET?**

23 A. Yes.

24 **Q. AT PAGE 3, LINES 1-3, OF HIS DIRECT TESTIMONY, MR. MEASE**
25 **STATES THAT “THE REVIEW AND FINAL APPROVAL OF THE**
26 **CONTRACT DOCUMENTS HAS BEEN DELAYED DUE TO THE**
27 **TOWN’S FAILURE TO RECEIVE REQUESTED DOCUMENTS FROM**
28 **JOHNSON UTILITIES IN A TIMELY MANNER.” HAS JOHNSON**

BROWNSTEIN HYATT FARBER SCHRECK, LLP
One East Washington Street, Suite 2400
Phoenix, AZ 85004
602.382.4040

1 **UTILITIES PROVIDED DOCUMENTS TO THE TOWN IN A TIMELY**
2 **MANNER?**

3 A. Yes. In his direct testimony, Mr. Mease attaches an article from
4 www.trivalleycentral.com which reports that Johnson Utilities has not provided
5 some 450 line extension agreements and master utility agreements to the Town.
6 However, while the Town did request those documents and the Company agreed
7 to provide the documents, providing the documents was never a precondition of
8 finalizing and executing the Asset Purchase and Lease Agreement. Rather, in
9 meetings with representatives of the Town, the parties agreed to finalize and
10 execute the Asset Purchase and Lease Agreement. Thereafter, the obligations of
11 the Town under the Asset Purchase and Lease Agreement would be subject to the
12 Town's review and reasonable approval of the line extension agreements and
13 master utility agreements.

14 **Q. HAS JOHNSON UTILITIES WORKED DILIGENTLY TO MEET THE**
15 **TOWN'S TIMETABLE FOR COMPLETING THE ACQUISITION OF**
16 **THE COMPANY'S WATER AND WASTEWATER SYSTEMS?**

17 A. Absolutely. In 2013 Johnson Utilities offered for sale to the Town its operations
18 and facilities which are reflected in the draft Asset Purchase and Lease Agreement
19 attached to my Direct Testimony and to the Direct Testimony of Town Manager
20 Charles Montoya dated April 9, 2014. Discussions between the Town and
21 Johnson Utilities resulted in agreement on the price and other key terms sufficient
22 to cause the Company to file the application in this docket in order to meet the
23 Town's desired schedule. The Town then decided to call an election to obtain
24 voter approval of the proposed transaction on May 20, 2014, the earliest date
25 allowed pursuant to state law concerning election dates.

26 Johnson Utilities has fully cooperated with experts and consultants hired by the
27 Town, as described in my testimony below. Additionally, Johnson Utilities
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

sought an expedited hearing schedule in this docket, and the matter is scheduled for a hearing on May 19, 2014. The Florence Town Council is scheduled to take up the Asset Purchase Agreement at a council meeting on May 27, 2014. The City of Phoenix Industrial Development Authority has pending before it an application concerning this transaction which will be processed upon the Town's signing the Asset Purchase and Lease Agreement.

Johnson Utilities has offered for sale to the Town its assets and the Company believes that the Town has agreed to purchase those assets, subject to the voter approval, approval by the Commission, and approval of the transaction documents and the conclusion of due diligence. All of these parallel paths and actions were agreed to by Johnson Utilities in order to meet the Town's expressed desire to close the transaction in June 2014. Much of the filed testimony that I am addressing in this rebuttal testimony is concerned with the process necessitated by the Town's desired schedule and, therefore, raises no substantive concerns as detailed below. The fact is that the Town wanted the first opportunity to purchase the Johnson Utilities assets and the Company gave deference to the Town and the first opportunity to the Town. The fact that this docket was opened demonstrates the fundamental agreement of Johnson Utilities and the Town. For all of these reasons, it is simply not accurate to assert that Johnson Utilities has not provided documents in a timely manner to the Town.

Q. WHEN DO YOU ANTICIPATE THAT THE ASSET PURCHASE AND LEASE AGREEMENT WILL BE SIGNED?

A. The Town has advised me that the final Asset Purchase and Lease Agreement will be presented to the Town Council for a vote on May 27, 2014, assuming that the vote at the special election is positive.

Q. AT PAGE 5, LINES 2-4, OF HIS DIRECT TESTIMONY, MR. MEASE NOTES THAT JOHNSON UTILITIES SERVES APPROXIMATELY

1 **22,954 WATER CUSTOMERS AND 30,901 WASTEWATER CUSTOMERS**
2 **WHILE THE TOWN OF FLORENCE SERVES APPROXIMATELY 3,526**
3 **WATER CUSTOMERS AND 2,905 WASTEWATER CUSTOMERS.**
4 **SHOULD THE COMMISSION WORRY ABOUT THE TOWN'S ABILITY**
5 **TO PROVIDE UTILITY SERVICE TO THE JOHNSON UTILITIES**
6 **CUSTOMERS?**

7 A. No. In his Direct Testimony dated April 9, 2014, Town Manager Charles
8 Montoya notes that the Town of Florence built its second wastewater treatment
9 facility in 1953 as a joint project with the Arizona Department of Corrections and
10 that the Town has water facilities which pre-date World War II. He explains that
11 the Town has significant experience in the operation of water and wastewater
12 systems, including knowledge of the regulatory requirements of the Arizona
13 Department of Environmental Quality and the Arizona Department of Water
14 Resources. Thus, the Town has the requisite experience and expertise to operate
15 the utility systems that will be acquired from Johnson Utilities.

16 Additionally, as I have previously testified, Johnson Utilities and the Town will
17 work hard to ensure that the transaction is smooth and seamless to customers.
18 Johnson Utilities and the Town will enter into the Management Agreement
19 described in Section 2.06 of the Asset Purchase and Lease Agreement whereby
20 Johnson Utilities will operate the transferred water and wastewater assets for a
21 period of five years. At the end of five years, the Town will assume management
22 of the water and wastewater systems unless the Town elects to extend the term of
23 the Management Agreement. Given the Town's operational experience and solid
24 track record of providing water and wastewater services to its residents, the
25 existing customers of Johnson Utilities will continue to receive a high level of
26 service throughout the transition.

1 **Q. AT PAGE 7, LINES 3-4, OF HIS DIRECT TESTIMONY, MR. MEASE**
2 **STATES THAT “A CITIZENS ADVISORY COMMITTEE COULD BE**
3 **APPOINTED THAT WOULD PROVIDE THE NON-RESIDENT**
4 **CUSTOMERS A VOICE TO PROMOTE AND ADDRESS THE**
5 **CONCERNS OF THE NON-RESIDENT RATEPAYER.” DO YOU**
6 **BELIEVE THAT THE COMMISSION SHOULD REQUIRE SUCH A**
7 **COMMITTEE IN THIS CASE?**

8 **A. No. While I am not an attorney, it is my understanding that the Commission lacks**
9 **the authority to impose a requirement upon the Town of Florence to establish a**
10 **citizens’ advisory committee as a condition of approving the sale and transfer of**
11 **assets of Johnson Utilities to the Town. And, even if the Commission were to**
12 **require a customer advisory committee in its order, I do not believe that the**
13 **Commission would be able to enforce compliance with the requirement by the**
14 **Town. More importantly, as I discussed in my direct testimony, there are existing**
15 **statutes in place under Title 9 of the Arizona Revised Statutes which ensure that**
16 **the Town treats customers residing outside its municipal boundaries on an equal**
17 **footing with those residing inside the municipal boundaries. These statutes**
18 **require that rate increases be justified, that prior notice of rate increases be**
19 **provided to all customers, and that a public hearing be held before any rate**
20 **increase is implemented. Additionally, the statutes prohibit as unlawful any rate**
21 **increase that is not just and reasonable. Thus, the statutes in place provide**
22 **protections for non-resident customers and there is no need for a citizen’s**
23 **advisory committee.**

24
25 **Q. AT PAGE 7, LINES 15-19, OF HIS DIRECT TESTIMONY, MR. MEASE**
26 **ASSERTS THAT THERE ARE MANY RESIDENTS IN THE AFFECTED**
27 **SERVICE AREAS WHO HAVE QUESTIONED WHETHER THE**
28 **TRANSACTION BETWEEN THE TOWN AND JOHNSON UTILITIES IS**

1 **AN “ARMS-LENGTH TRANSACTION.” HOW DO YOU RESPOND TO**
2 **THIS ASSERTION?**

3 A. To begin, I would note that Mr. Mease does not identify a single “resident” in his
4 testimony who raised the alleged concern regarding the lack of an arms-length
5 transaction. Rather, as support for his testimony, Mr. Mease cites a December
6 2013 *Phoenix New Times* article attacking Mayor Tom Rankin.¹ However, the
7 cited article does not even mention the transaction between the Town and Johnson
8 Utilities, nor does it discuss the customers of Johnson Utilities at all.
9 Additionally, Mr. Mease cites as support for his testimony something from the
10 website www.santanvalley.com which appears to be an opinion by an unidentified
11 person who opposes the Town’s acquisition of Johnson Utilities’ assets.² Other
12 than citing these two questionable documents, Mr. Mease provides no evidence
13 that the transaction between Johnson Utilities and the Town is anything other than
14 an arms-length transaction. In fact, Mr. Mease states in his Direct Testimony that
15 “RUCO does not have reason to believe that the transaction is not arms-length.”³

16 **Q. IS THE TRANSACTION BETWEEN JOHNSON UTILITIES AND THE**
17 **TOWN “ARMS-LENGTH”?**

18 A. Absolutely. Black’s Law Dictionary defines “arm’s-length” as follows:

19 Of or relating to dealings between two parties who are not related or
20 not on close terms and who are presumed to have roughly equal
21 bargaining power; not involving a confidential relationship.⁴

22 Based upon this definition, as well as any other definition of which I am aware,
23 the sale of utility assets by Johnson Utilities to the Town of Florence is an arm’s-
24 length transaction. There is no legal relationship or confidential relationship
25 between Johnson Utilities and the Town. The Town is represented in this

26 ¹ The Phoenix New Times article was attached as Exhibit “C” to the Mease Direct Testimony.

27 ² The opinion piece from www.santanvalley.com was attached as Exhibit “D” to the Mease Direct
28 Testimony.

³ Direct Testimony of Robert B. Mease at 7, lines 17-18.

⁴ Black’s Law Dictionary, Abridged Seventh Edition, at 82 (West Group, 2000).

1 transaction by the Town Attorney, James Mannato, as well as outside legal
2 counsel at the national law firms of Greenberg Traurig LLP and Dickinson Wright
3 PLLC. The two parties have roughly equal bargaining power. In addition, the
4 proposed Asset Purchase and Lease Agreement must be approved by the Town
5 Council, which is comprised of seven publicly elected officials, before it is
6 effective. Further, the Town's acquisition of Johnson Utilities' assets must also
7 be approved by a majority of the voters in a special election.

8
9 Further, the Town of Florence sought out two separate independent consultants to
10 provide evaluation and analysis regarding the valuation of the water and
11 wastewater systems being acquired from Johnson Utilities. The Town retained
12 Water Works Engineers to prepare a replacement cost new ("RCN") analysis and
13 a replacement cost new less depreciation ("RCNLD") analysis of the water and
14 wastewater systems. According to its company website, Water Works Engineers,
15 with offices in Arizona, California, Texas and Utah, provides engineering
16 products and services to the municipal water and wastewater community. The
17 results of the Water Works Engineers analyses were as follows:

Asset	RCN	RCNLD
Water	\$168,794,986	\$123,811,246
Wastewater	\$356,795,644	\$254,647,160
Total	\$525,590,630	\$378,458,406

18
19
20
21
22 Thus, the Town is paying \$121 million for assets that have been valued at more
23 than \$378 million using an RCNLD analysis.

24
25 Additionally, the Town retained Economists.com to analyze the purchase of the
26 Johnson Utilities water and wastewater systems. Economists.com has served as
27 the Town's water and wastewater rate consultants for the past decade, having
28 performed numerous rate studies and financial forecasts for the Town. Further,

BROWNSTEIN HYATT FARBBER SCHRECK, LLP
One East Washington Street, Suite 2400
Phoenix, AZ 85004
602.382.4040

1 Economists.com assisted the Town in 2007 during previous discussions with
2 Johnson Utilities over the possible acquisition of the water and wastewater
3 systems. One of the tasks requested of Economists.com was to analyze and
4 provide an opinion regarding the reasonableness of the proposed purchase price
5 for the Johnson Utilities assets. The work included an analysis of the overall cost
6 of the transaction as well as the cost per active connection, and a comparison of
7 these costs to other similar transactions in the State of Arizona. In a PowerPoint
8 presentation to the Town Council in March 2014, a copy of which is attached to
9 my Rebuttal Testimony as Exhibit A, Economists.com determined a price-per-
10 account for Johnson Utilities of \$2,162 based upon a purchase price of
11 \$121,000,000 and 55,964 water and wastewater accounts.⁵ The price-per-account
12 of \$2,162 compares to a price-per-account of \$4,000 for the Town of Queen
13 Creek's acquisition of Queen Creek Water Company and a price-per-account of
14 \$4,539 for the Town of Queen Creek's acquisition of H2O Water Company.⁶
15 Additionally, Economists.com provided an exhibit showing a range of prices-per-
16 account of \$1,077 at the low end to \$7,845 at the high end, with an average price-
17 per-account of \$3,209, for purchases between 2004 and 2013.⁷ Economists.com
18 concluded that the "[a]cquisition price [for the Johnson Utilities water and
19 wastewater systems] is reasonable and affordable compared to other utilities."⁸

20 All of these facts evidence a transaction between the Town and Johnson Utilities
21 which is arms-length, and there is no credible evidence in this case to the contrary.
22

23 **Q. AT PAGE 8, LINES 5-10, OF HIS DIRECT TESTIMONY, MR. MEASE**
24 **OPPOSES THE CANCELLATION OF JOHNSON UTILITIES'**
25 **CERTIFICATE OF CONVENIENCE AND NECESSITY AT THE TIME**
26

27 ⁵ Economists.com March 2014 PowerPoint presentation at 3.

28 ⁶ *Id.* at 4.

⁷ *Id.* at 5.

⁸ *Id.* at 12.

1 **OF CLOSING. DOES JOHNSON UTILITIES SUPPORT RUCO'S**
2 **POSITION ON THE CANCELLATION OF ITS CC&N?**

3 A. No. In its application, Johnson Utilities requested the cancellation of its
4 Certificate of Convenience and Necessity at the time of closing of the transfer and
5 sale of utility assets to the Town of Florence. Likewise, Staff has recommended
6 that the Company's CC&N be cancelled effective upon the closing of the sale and
7 transfer of assets to the Town. Johnson Utilities supports Staff's recommendation
8 regarding the cancellation of the Company's CC&N.

9 **IV. PULTE HOME CORPORATION—DANIEL BONOW.**

10 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF DANIEL BONOW ON**
11 **BEHALF OF PULTE HOME CORPORATION IN THIS DOCKET?**

12 A. Yes.

13 **Q. AT PAGES 7-8 OF HIS DIRECT TESTIMONY, MR. BONOW STATES**
14 **THAT "THE DRAFTS ATTACHED TO MR. MONTOYA'S TESTIMONY**
15 **IDENTIFY ONLY ONE OF THE TWO ANTHEM MASTER UTILITY**
16 **AGREEMENTS IN THE ATTACHED LIST OF MASTER AGREEMENTS**
17 **TO BE ASSIGNED TO THE TOWN" AND THAT "BOTH AGREEMENTS**
18 **WILL NEED TO BE ASSIGNED AND ASSUMED BY THE TOWN."**
19 **DOES JOHNSON UTILITIES AGREE WITH MR. BONOW ON THIS**
20 **POINT?**

21 A. Yes. Pulte has two master agreements with Johnson Utilities applicable to the
22 Anthem at Merrill Ranch master planned development. The Master Utility
23 Agreement for Water and Wastewater Facilities between Johnson Utilities and
24 Pulte for Rancho Sendero, Pinal County, Arizona, dated August 4, 2004, was
25 inadvertently left off of the schedule of master utility agreements being assigned
26 to the Town pursuant to the Asset Purchase and Lease Agreement. Johnson
27 Utilities will make certain that both Pulte master utility agreements are referenced
28

1 in the final draft of the Asset Purchase and Lease Agreement and assigned to the
2 Town.

3 **V. SAN TAN HEIGHTS HOMEOWNERS ASSOCIATION—KARL**
4 **GEHRING.**

5 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF KARL GEHRING ON**
6 **BEHALF OF THE SAN TAN HEIGHTS HOMEOWNERS ASSOCIATION**
7 **IN THIS DOCKET?**

8 A. Yes.

9 **Q. IN HIS DIRECT TESTIMONY, MR. GEHRING DISCUSSES AN**
10 **UNRESOLVED CLAIM BY THE ASSOCIATION AGAINST JOHNSON**
11 **UTILITIES PERTAINING TO DAMAGE TO THE LINER IN THE**
12 **ASSOCIATION'S SOUTHERN LAKE ALLEGEDLY CAUSED BY THE**
13 **COMPANY'S CONTRACTOR, AS WELL AS ALLEGED DAMAGE TO**
14 **LAKE EQUIPMENT AND LANDSCAPING. ARE YOU AWARE OF**
15 **THESE CLAIMS?**

16 A. Yes. As described in Mr. Gehring's testimony, Johnson Utilities discharged
17 effluent high in turbidity into the Association's southern lake in May 2013. In
18 response to the discharge, Johnson Utilities drained and cleaned the lake. In
19 connection with this work, it was discovered that the liner to the lake was
20 damaged. While the Association alleges that the damage was caused by Johnson
21 Utilities and/or its contractor, the contractor has determined that the damaged liner
22 was a result of improper installation and not the discharge of effluent high in
23 turbidity or the subsequent draining and cleaning of the lake. Both Johnson
24 Utilities and its contractor have notified their respective insurance carriers of the
25 claims of the Association and the matter is being addressed.

26 **Q. MR. GEHRING ASSERTS AT PAGE 4, LINES 10-11, OF HIS DIRECT**
27 **TESTIMONY THAT THE REPAIRS TO THE SOUTHERN LAKE COST**
28 **THE ASSOCIATION \$296,769.67. DO YOU BELIEVE THAT JOHNSON**

BROWNSTEIN HYATT FARBER SCHRECK, LLP
One East Washington Street, Suite 2400
Phoenix, AZ 85004
602.382.4040

1 **UTILITIES IS OBLIGATED TO REIMBURSE THE ASSOCIATION FOR**
2 **THIS AMOUNT?**

3 A. No. If it is ultimately determined that Johnson Utilities and/or its contractor
4 damaged the liner of the southern lake, the cost of repairing that liner is certainly
5 far less than \$300,000. It is my understanding that the Association replaced the
6 existing liner with a much better liner than the one that was originally installed,
7 and Johnson Utilities should not be responsible under any circumstances for an
8 upgrade to the liner.

9 **Q. AT PAGE 4, LINES 18-21, OF HIS DIRECT TESTIMONY, MR.**
10 **GEHRING REQUESTS THAT THE COMMISSION “REQUIRE**
11 **JOHNSON UTILITIES TO ESTABLISH A RESERVE ACCOUNT IN AN**
12 **AMOUNT SUFFICIENT TO COVER THE ASSOCIATION’S CLAIMS**
13 **RELATING TO THE DIRECT AND CONSEQUENTIAL DAMAGES TO**
14 **THE SOUTHERN LAKE RESULTING FROM THE DISCHARGE OF**
15 **NON-CONFORMING EFFLUENT INTO THE SOUTHERN LAKE.” DO**
16 **YOU BELIEVE THAT THE COMMISSION SHOULD IMPOSE SUCH A**
17 **REQUIREMENT?**

18 A. No. As I testified above, Johnson Utilities and its contractor have each notified
19 their respective insurance carriers of the claims asserted by the Association. In
20 the event that it is determined that Johnson Utilities is responsible for all or any
21 portion of the amounts claimed by the Association, then there is sufficient money
22 available through insurance and/or the cash reserves of the Company to reimburse
23 the Association. There is no need to impose a reserve account requirement when
24 the Association has not established a compensable claim.

25 **VI. STEVE PRATT.**

26 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF STEVE PRATT ON**
27 **BEHALF OF HIMSELF AND INTERVENORS TODD HUBBARD, ALDEN**
28 **WEIGHT AND KAREN CHRISTIAN?**

1 A. Yes.

2 **Q. WHAT IS YOUR GENERAL RESPONSE TO THE PRATT TESTIMONY?**

3 A. Much of what is included in Mr. Pratt's testimony is outside the scope of this
4 proceeding. For example, Mr. Pratt spends a great deal of time discussing the
5 rate-setting process following the close of the transaction. As I have discussed in
6 my direct testimony and in my testimony above, Title 9 of the Arizona Revised
7 Statutes imposes statutory requirements on the Town which ensure that the rates
8 set by the Town are just and reasonable for residents and non-residents alike.

9 **Q. DO YOU HAVE SPECIFIC COMMENTS REGARDING MR. PRATT'S**
10 **DIRECT TESTIMONY?**

11 A. Given that substantially all of Mr. Pratt's testimony focuses on matters that are
12 outside the scope of the Commission's jurisdiction in this proceeding, I will not
13 comment on specific statements in Mr. Pratt's testimony. However, I would note
14 that Johnson Utilities strongly disagrees with much of Mr. Pratt's testimony, and
15 the fact that I am not addressing specific statements in his testimony should not be
16 construed as Johnson Utilities' agreement with anything contained in his
17 testimony.

18 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

19 A. Yes.

20

21

22

23

24

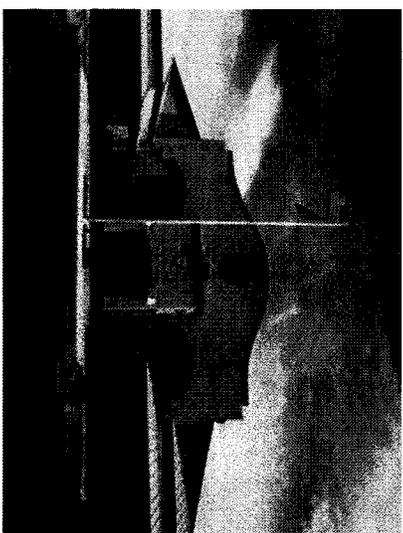
25

26

27

28 014676\0010\11242647.1

EXHIBIT A



Town of Florence

JU Acquisition -- Financial Feasibility Analysis

Council Briefing

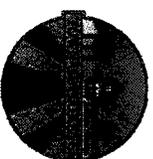
March 2014

Preliminary – Subject to Change

economists.com



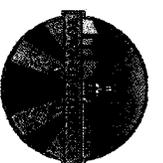
Johnson Utilities Basic Terms of Deal



- ◆ Purchase Price: \$121,000,000
- ◆ Funded by bonds purchased from seller
- ◆ Closing: mid to late 2014
- ◆ 5 year management agreement after acquisition



JU Original and Revised Proposal 2007 vs. 2014



2014

Offering Price

\$121,000,000

Current Accounts

Water

24,129

Wastewater

31,835

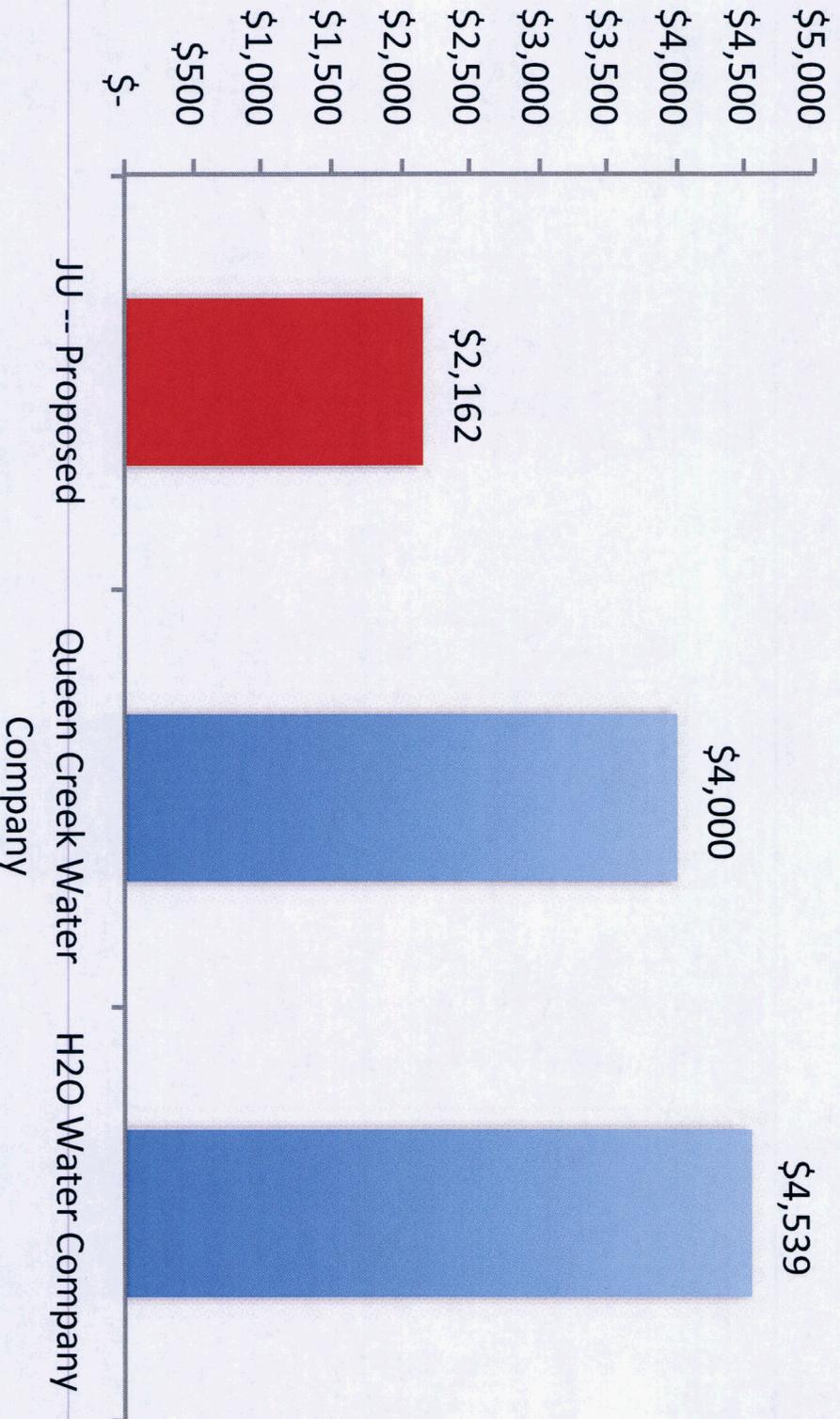
Total

55,964

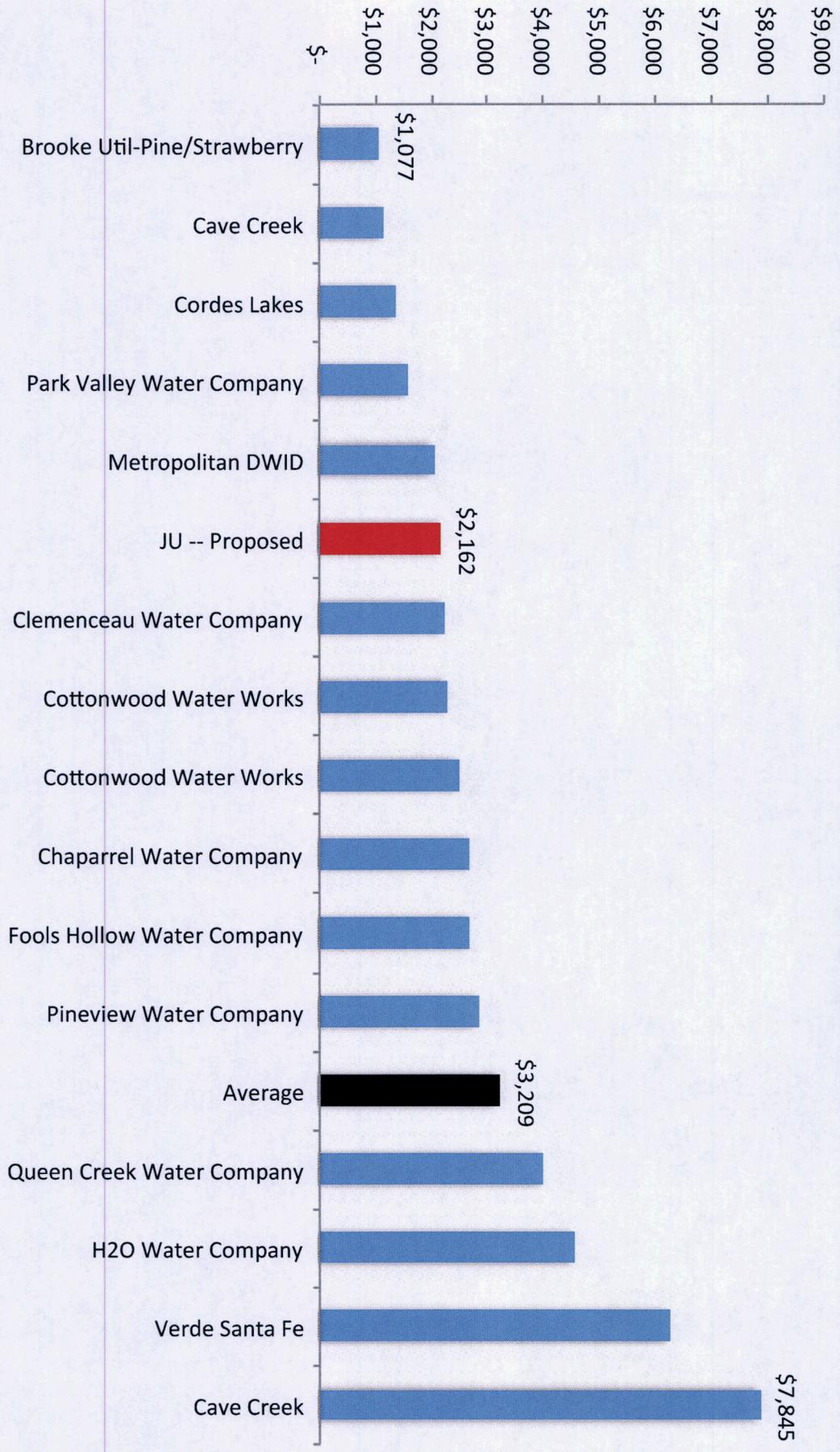
Price per Account

\$ 2,162

Comparison of Water Company Purchases Value per Connection, 2004-2013



Comparison of Water Company Purchases Value per Connection, 2004-2013



economists.com

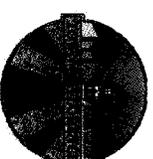
Forecast of Future Revenues and Expenses under Town Ownership



- ◆ Town staff and consultants developed a long-term forecast of future revenues and expenses under ownership and operation by the Town of Florence
- ◆ Forecast was based on a series of very conservative assumptions about future events:
 - ❖ Only modest annual account growth
 - ❖ Many expenses continue to increase
 - ❖ Annual 3.0% rate adjustments (less than industry avg of 5-6%)
- ◆ Key was to determine whether the Town could operate the acquired utility at a reasonable cost to ratepayers while still deriving a financial benefit to the Town

Town of Florence

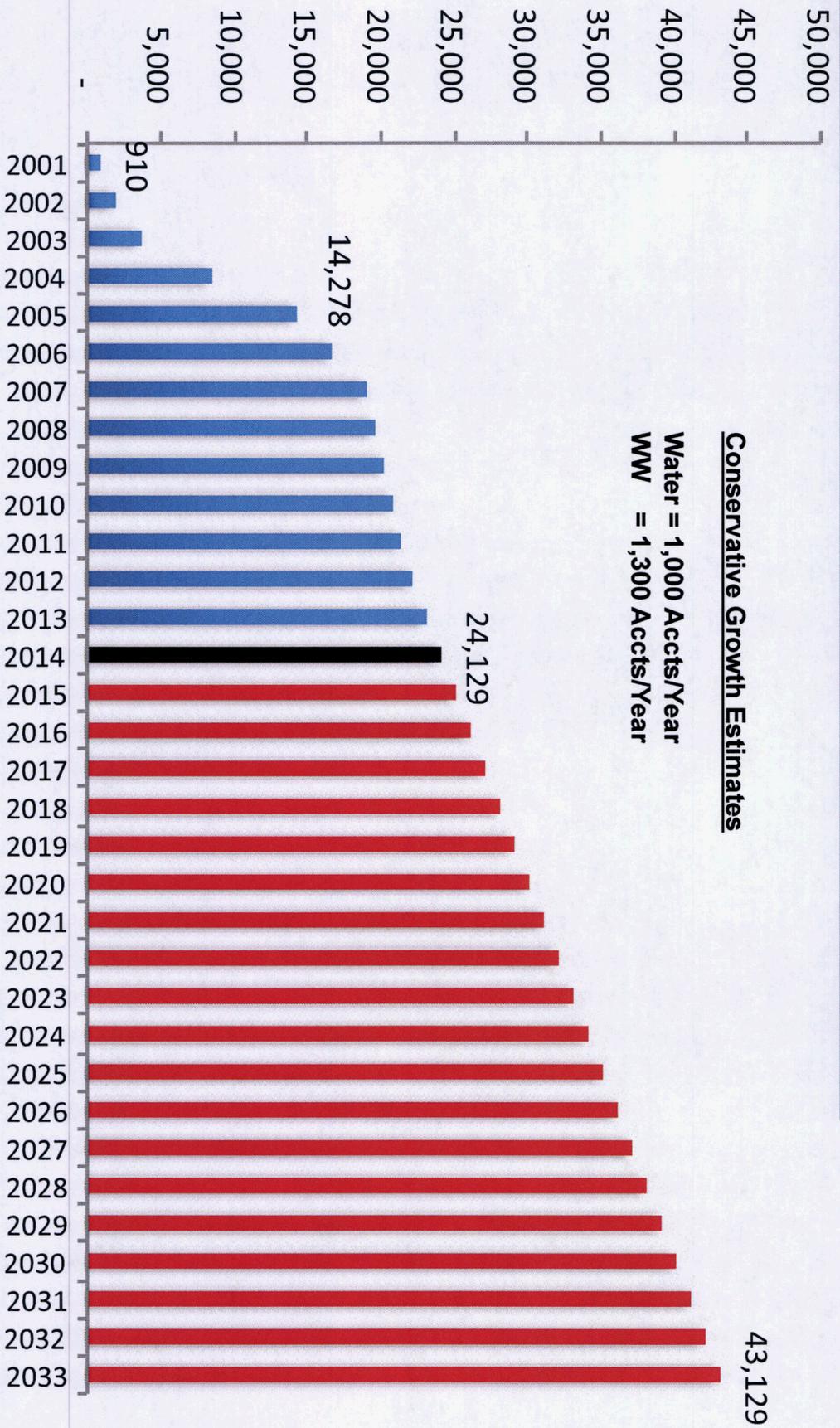
Notes on Financial Forecast



- ◆ **This forecast is NOT a guarantee**; it is a prediction based on a set of reasonable assumptions that may or may not turn out to be correct
- ◆ Because no one can predict the future with perfect accuracy, there remains a possibility that unexpected expenses will occur or expenses will be greater than forecast
- ◆ The risk of unexpected and/or higher expenses is common in the purchase of any business
- ◆ Town alone must be willing to accept this risk as a cost of doing business and of making this deal



Town of Florence Forecast Future Water Accounts

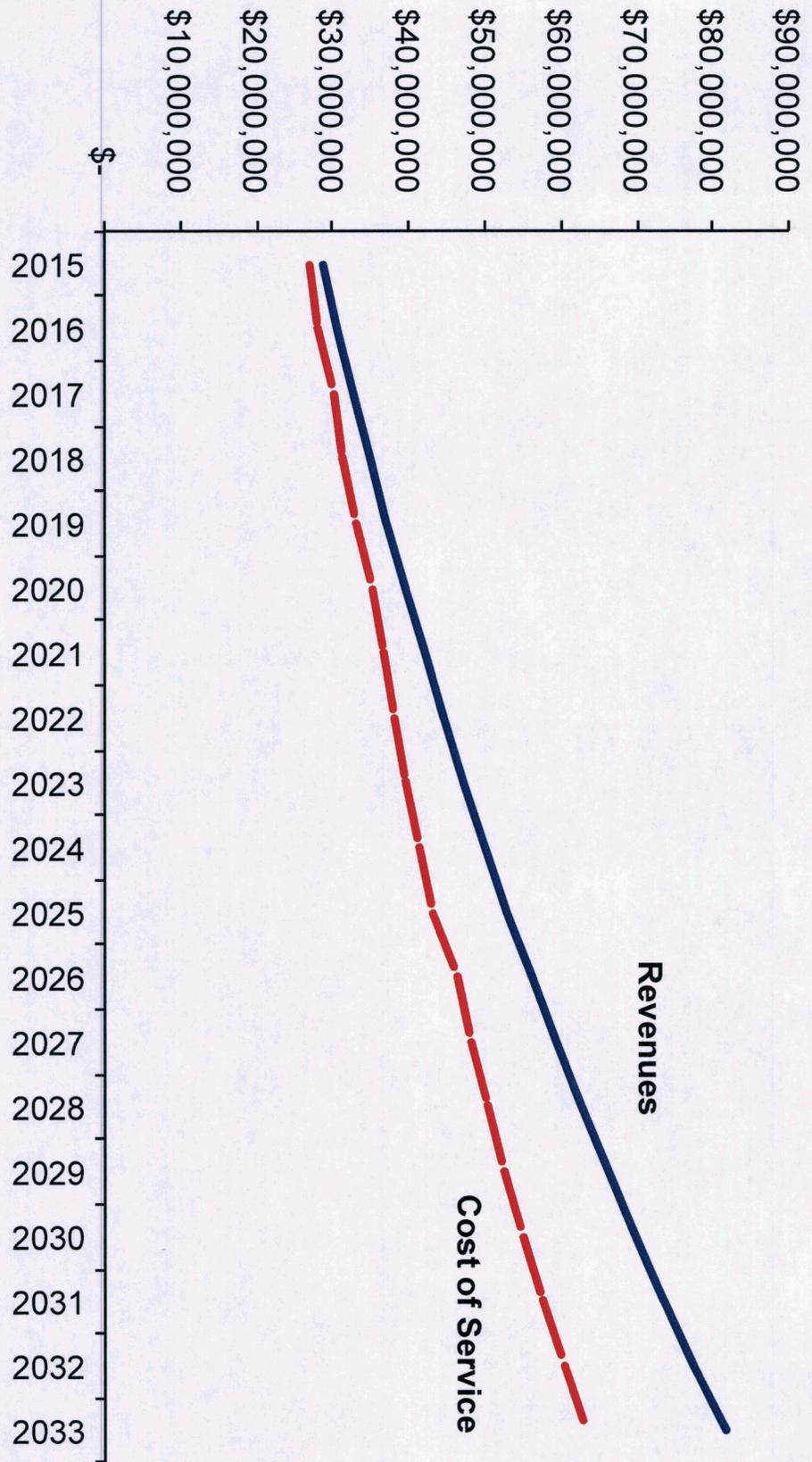


Year 1-20 Financial Forecast

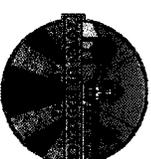
3.0% Annual Rate Adjustments



Revenues are forecast to be sufficient to fund all acquisition and operating costs

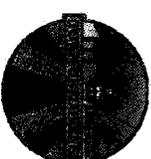


Potential Financial Benefits of Purchase



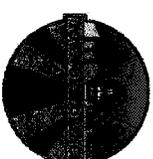
- ◆ Increased efficiencies of Town staff and work force in operating two systems
- ◆ Annual financial contribution from acquired utility to General Fund, thus limiting need for additional taxes
- ◆ Elimination of 5% franchise fee to existing Town residents
- ◆ Net cash flow could be used to improve quality of both existing and acquired utilities
- ◆ Net cash flow could also be used to limit future rate increases on both existing and acquired utilities

Risks of Additional Rate Increases



- While potential benefits are significant, there is also the risk that additional rate increases would be required if **any** of the following occurs:
 - ❖ Annual account growth is lower than 1,000 water and 1.300 ww
 - ❖ Town personnel requirements are greater than expected
 - ❖ Operating expenses or CAGRD are greater than forecast
 - ❖ Capital improvement needs are greater than forecast
 - ❖ Major economic disruption – recession, terrorist attack, weather event, etc.

Presentation Summary



- ◆ Acquisition price is reasonable and affordable compared to other utilities
- ◆ As with any deal of this magnitude, there are risks associated with this transaction that must be recognized and accepted
- ◆ Economic and financial forecast indicates that this acquisition has numerous **potential** financial benefits to Town of Florence

