

Preliminary Feasibility Study

FORMATION OF A PUBLIC UTILITY IN TUCSON, ARIZONA

PREPARED BY

Toby Bishop, Ann Bulkley, and Adam Wyonzek

February 2026

KEY TAKEAWAYS

It would not be financially feasible for the City of Tucson, Arizona to condemn the electric distribution assets owned and operated by Tucson Electric Power (“TEP” or “Company”) to form a municipal utility – a process called municipalization.

Our conclusion is based on a comparison of the estimated future cost of electric service from a new municipal electric utility to the projected cost of continuing service from TEP.

Establishing a new municipal utility is estimated to cost the residents and businesses of the City of Tucson:

- more than \$4 billion to acquire TEP’s electric distribution assets within the city and to establish a new municipal utility; this cost would be financed and recovered in utility rates over decades.
- approximately \$290 million *more* per year, on average, over the next 20 years for electric service as compared the same service being provided by TEP.

Municipalization would significantly increase average residential electric bills compared to the cost of continuing service from TEP. The additional cost of electric service from a municipal utility would escalate over time, increasing from of approximately:

- \$160 per year in Year 1 of its operations; to
- \$900 per year in Year 20.

The time it takes to condemn and acquire a local utility’s assets is highly variable; it can take as long as a decade or more to secure voter approval and resolve the related litigation and other matters. Given this uncertainty, our analysis conservatively assumes that a municipal utility would begin operating at the beginning of 2032 – approximately six years from the date of this report.

KEY TAKEAWAYS (CONT.)

There are at least two additional factors that should be considered when evaluating whether a municipal utility in Tucson would be financially feasible:

- Our estimated acquisition cost excludes any potential going concern value of TEP's assets, which is the incremental value attributable to the fact that the assets condemned would comprise an existing business unit that is operational immediately upon completion of an acquisition. However, going concern could be a significant cost that the City of Tucson may have to pay TEP if the city were to condemn TEP's assets. The amount of any going concern value is uncertain and would be determined at the time of a taking.
- A large data center has been proposed in TEP's service area outside the City of Tucson. TEP estimates the revenue provided by the data center's significant energy use would create rate benefits for other TEP customers, and its exclusion from the area served by a municipal utility would make municipalization even more financially infeasible.

Forming a municipal utility would allow the City of Tucson to finance its electric operations entirely with debt and thus eliminate returns to shareholders that are reflected in the rates of all investor-owned utilities, including TEP. However, the benefit of lower financing costs is estimated to be more than offset by the substantial costs to acquire, operate, and maintain the electric distribution system within the city.

In addition to financial feasibility, there are numerous additional factors and risks that should be considered by the City of Tucson when deciding whether to form a municipal utility, including, but not limited to:

- The uncertainty and significance of the time and cost associated with pursuing municipalization.
- The need to decide, potentially years in advance of taking ownership, whether to pursue municipalization without knowing whether forming a municipal utility would be financially feasible.
- The uncertainty regarding Tucson's ability to successfully operate and maintain the complex infrastructure to provide safe, reliable, and efficient electric service.
- The governance structure of the municipal utility (*e.g.*, elected or appointed officers), and the lack of third-party oversight since the municipality would not be regulated by the Arizona Corporation Commission and city officials would have sole and exclusive authority to set future electric rates.

NOTICE

- This whitepaper reflects the perspectives and opinions of the authors and does not necessarily reflect those of The Brattle Group, its other consultants, or its clients.
- Where permission has been granted to publish excerpts of this white paper for any reason, the publication of the excerpted material must include a citation to the complete white paper.

Recent Municipalization History

In the U.S., most municipal electric utilities were formed in the early 1900s as the country's original electric systems were developed. Today, with the country effectively fully electrified, those seeking to create new public utilities are left to pursue municipal condemnation of existing electric systems owned by investor-owned utilities. Not surprisingly, the circumstances surrounding the formation of a new public electric utility through municipalization today differ substantially from a century ago due to the development of the complex physical infrastructure that currently exists to serve the significant energy demands of modern customers. Furthermore, the financial implications of acquiring a mature system also differ substantially from when newly formed public power providers originally developed new electrical systems.

Communities across the country have explored forming new municipal electric utilities through condemnation of an existing utility's assets for several reasons, including a belief that they might: (1) achieve lower future electric rates; (2) gain local control of operations and governance; (3) achieve renewable energy goals more quickly; and (4) improve customer service and reliability. While many communities have launched such initiatives in the past quarter century, most of these efforts have been abandoned or rejected by voters due to the high costs and risks of uncertain or adverse outcomes. For example, in 2025, voters in both Pueblo, Colorado and Decorah, Iowa rejected ballot measures in those communities to form a municipal utility;¹ both had also previously rejected similar measures in 2020 and 2018, respectively.

Key statistics to consider regarding municipalization initiatives include the following, and which are also summarized in Figure 1:

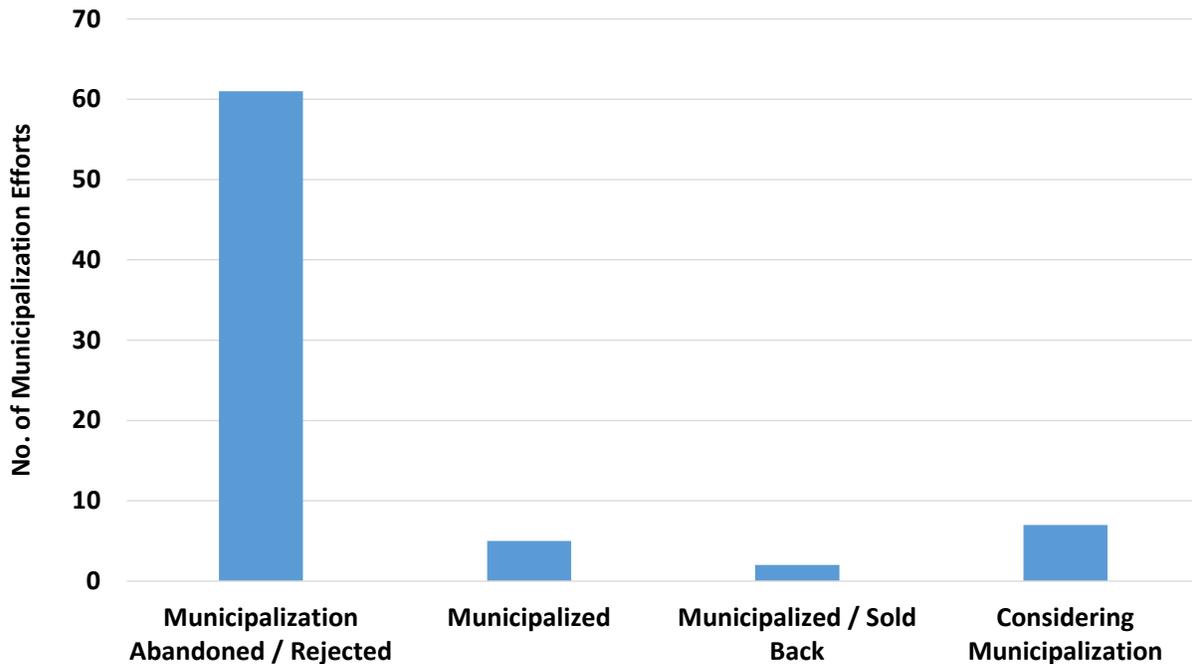
¹ Brett Yager, "Unofficial results: Pueblo overwhelmingly votes No on 2A," KXRM Colorado Springs, May 5, 2025; Seth Boyes, "Lights go down on city's second MEU proposal," Decorah Leader, March 4, 2025.

- *Very Few Municipalizations Have Occurred:* Approximately 68 municipalization initiatives have been initiated and subsequently resolved in the United States over the past 25 years:
 - Only seven of these resulted in the formation of a municipal utility. *However, two of those utilities were subsequently sold back to the original investor-owned utility.*
 - Thus, just 5 of the 68 (*i.e.*, approximately 7%) municipal initiatives seeking to condemn an existing utility’s assets have been completed and remain in service – which means 93% of the initiatives either were rejected, abandoned, or sold back to the original utility.
- *The Few Municipalizations That Have Occurred Have Been Small:* Of the 5 municipalizations completed since 2000, the systems acquired were significantly smaller and less complex than TEP’s system. Two served extremely small communities in Alaska with less than 75 customers each, while the remaining three served 4,900 customers, 14,000 customers, and 18,000 customers, respectively. By comparison, TEP’s system serves over 450,000 customers – about half of which are within Tucson.
- *The Most Recent Municipalization Was More Than a Decade Ago:* The most recent municipalization in the U.S. occurred more than a decade ago, in 2013, when Jefferson County Public Utility District (“JPUD”) in Washington acquired the electric assets of Puget Sound Energy (“PSE”). The acquisition was based on settlement with PSE, which is not typically the case with municipalization initiatives.
- *Numerous Municipalization Efforts Have Been Abandoned Since the Most Recent Municipalization:* Since 2013, 25 municipalization efforts have been initiated and subsequently abandoned or rejected by voters.
- *Municipalizations Are Being Currently Considered:* As of December 2025, approximately 7 municipalization efforts are currently being actively considered across the U.S.

The most recent cases where municipalities acquired or condemned investor-owned utility assets provide insight into the experiences of forming a new municipal electric utility and can help identify potential issues of which stakeholders should be aware when considering the possible acquisition of an existing utility’s infrastructure, particularly if the existing utility is an unwilling seller. **Appendix A** provides examples of municipalizations that have been completed in the past

two decades (Jefferson County, Washington and Winter Park Florida) and more recent examples of abandoned municipalization efforts (Boulder, Colorado, Chicago, Illinois, and the State of Maine).

FIGURE 1: SUMMARY OF MUNICIPALIZATION INITIATIVES SINCE 2000



Evaluation of the Financial Feasibility of the Municipalization and Operation of a Municipal Electric Utility by the City of Tucson

Arizona statutes provide a municipality the authority to condemn electric systems “within or without its corporate limits” after obtaining voter approval to do so.² However, a municipality may not create a new utility within the service area of an existing utility without first purchasing the existing utility’s property.³ Arizona statutes also allow a municipality to acquire the facilities of a utility irrespective of whether that utility has a franchise.⁴

² A.R.S. § 9-511(A), (C); accord A.R.S. § 9-516(B) (“The city or town which seeks to acquire the facilities of a public service corporation shall have the right to do so under eminent domain.”); A.R.S. § 9-522(A)(1) (“[A] municipality may... within or without its corporate limits, construct, improve, reconstruct, extend, operate, maintain and acquire, by gift, purchase or the exercise of the right of eminent domain, a utility undertaking or part thereof, and acquire in like manner land, rights in land or water rights in connection therewith.”). Note, assistance with certain aspects of this section of the whitepaper was provided by Osborn Maledon, P.A.

³ A.R.S. § 9-515(A); *City of Casa Grande v. Ariz. Water Co.*, 199 Ariz. 547, 552, ¶ 16 (App. 2001).

⁴ A.R.S. § 9-516.

In addition, any condemnation of utility property must be necessary for public use, and a municipality must provide just compensation for the property that it condemns.⁵ Just compensation includes:

[T]he fair and equitable value of such plant and property, including its value as a going concern, and the actual and consequential damages, if any, sustained by the public utility by reason of the severance from the other plant and property of the public utility of the plant and property to be taken.⁶

The City of Tucson would also be required to pay severance damages to compensate TEP for being left with an incomplete system to serve its remaining customers.⁷ Severance damages account for the reduction in the remaining property's value caused by separating the remaining property from the property that is the subject of the taking.⁸ In this context, one significant cost included within severance damages is the cost associated with reconstruction of the utility to serve its remaining customers due to the municipality's taking of a portion of the public service corporation's utility system.

A preliminary independent analysis has been conducted to evaluate whether it is financially feasible for the City of Tucson to condemn and acquire the electric distribution assets owned and operated by TEP within the city limits. The analysis assumes that the City of Tucson would not acquire any of TEP's electric generation or transmission assets, nor any of TEP's electric distribution assets located outside of the city limits. These same assumptions were made in the preliminary study of potential municipalization conducted on behalf of the City of Tucson, which is described in more detail later herein. To assess whether municipalization is financially feasible for Tucson residents and businesses, (1) the future cost of electric service being provided by a newly established municipal electric utility in Tucson is compared to (2) the future cost of electric service continuing to be provided by TEP.

The timing associated with the municipalization process is highly variable and uncertain, but it is noteworthy that prior contested municipalization efforts have taken as long as a decade or more to resolve. Based on the duration of several prior municipalization efforts and the fact that TEP is assumed to be averse to any condemnation, it is unlikely that municipal electrical service would be able to commence prior to 2032. While the analysis herein assumes the City of Tucson would

⁵ A.R.S. § 9-515(B); A.R.S. § 9-515(C).

⁶ A.R.S. § 9-518(B).

⁷ See A.R.S. § 9-518(B) (just compensation includes "actual and consequential damages . . . sustained by the public utility by reason of the severance from the other plant and property of the public utility.")

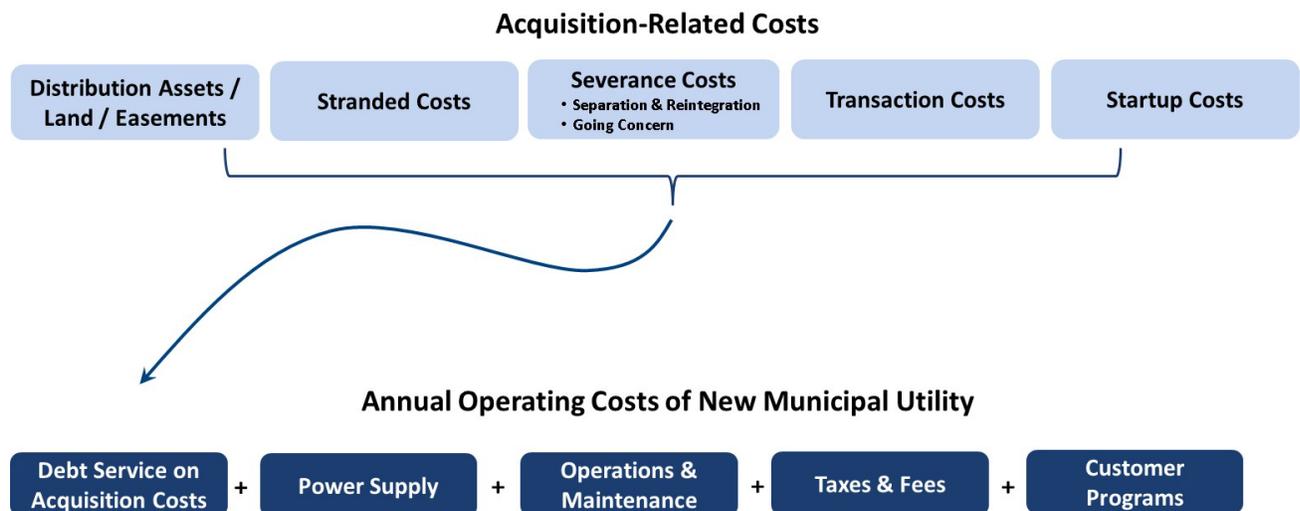
⁸ *State ex rel. Miller v. Filler*, 168 Ariz. 147, 149 (1991).

acquire and subsequently operate TEP’s electric assets commencing in 2032, voters should consider that the municipalization process, if pursued, could take longer than what is assumed for this analysis and such delay would likely increase the acquisition cost.

Projected Future Cost of Electric Service by a New Tucson Municipal Electric Utility

Projecting the future cost of electrical service from a new municipal electric utility in Tucson first requires an estimate of the various costs that the City of Tucson would incur to condemn and acquire TEP’s electric distribution system and to establish its own municipal electric utility. As shown in Figure 2, if the city decided to condemn and acquire TEP’s distribution assets within its city limits, the City of Tucson would incur various costs related to an acquisition. Those acquisition-related costs would then be financed and recovered through customer rates along with the other ongoing costs that the city would incur to provide electric service to customers.

FIGURE 2: ACQUISITION AND ANNUAL OPERATING COSTS TO BE INCURRED BY A NEW TUCSON MUNICIPAL UTILITY



As shown in Figure 2, the acquisition-related costs that the City of Tucson would incur include:

- The costs to acquire the physical electrical infrastructure, land, and easements in the city that exist as of the time of the acquisition (*i.e.*, existing assets plus any additional assets installed up through the acquisition date).
- The cost of any assets constructed by TEP as well as any contractual obligations executed by TEP up to the point of an acquisition that become “stranded.” A stranded

asset is one that would no longer be required by TEP to serve its remaining customers if the City of Tucson were to condemn and acquire TEP's electric distribution system within city limits.

- All costs associated with separating the electrical distribution system within the city limits from TEP's remaining electric network and reintegrating TEP's remaining electric network such that safe and reliable service is maintained to its remaining customers at the level TEP has provided prior to the condemnation and acquisition.
- All transaction costs incurred up to the condemnation and acquisition of the electric distribution system within the city limits, including all legal, engineering, and consulting costs, as well as the underwriting and debt issuance costs required to finance the acquisition.
- The various costs related to the startup of a new municipal utility.⁹
- The potential "going concern" value that the City of Tucson may be required to pay TEP due to its condemnation of TEP's assets. Going concern value represents the incremental value attributable to the fact that the assets subject to the condemnation together comprise a business unit that is complete, functional, and can be run as a business unit on day one after the acquisition.¹⁰

Tucson Municipal Utility Acquisition-Related Costs

It is projected to cost the City of Tucson approximately \$4.05 billion to condemn and acquire TEP's distribution assets within the city limits.¹¹ Specifically, the total acquisition-related costs that Tucson is projected to incur include the following:

⁹ These startup costs include initial capital expenditures of the new municipal utility, equipment inventory, facilities, fleet vehicles, staffing, and information technology, as well as the costs associated with maintaining sufficient cash working capital to support day-to-day operations of the utility and to respond to unanticipated events (e.g., funding for initial energy purchases, operation and maintenance expenses, and customer assistance programs).

¹⁰ A determination of whether Tucson would be required to pay going concern value associated with the condemnation and acquisition of TEP's electric distribution system within the city limits, and the amount of such compensation Tucson would pay to TEP, is outside the scope of this analysis and has been excluded from the assessment of financial feasibility. However, should Tucson decide to proceed with municipalization, the payment by the city to TEP of any going concern value would need to be considered as part of the overall financial feasibility.

¹¹ All values expressed in 2032 dollars.

- Acquisition of Electric Distribution Assets, Land, and Easements: The cost of acquiring TEP's distribution assets located within the city limits is estimated at \$2.57 billion and represents the largest portion of the overall acquisition-related costs. For purposes of this preliminary analysis, this estimated cost is derived based on (1) the reproduction cost new less depreciation value of the electric distribution and general plant assets that currently exist within city limits;¹² (2) the value of the incremental electric distribution and general plant assets projected to be placed into service from 2025 through 2031 (*i.e.*, prior to the assumed startup of municipal operations in Tucson in 2032) less retirements during this period; and (3) the value of the land owned and easements controlled by TEP currently within Tucson city limits.¹³
- Stranded Costs: The City of Tucson would be required to compensate TEP for any stranded costs that may occur due to a municipalization. For example, TEP supplies power to its customers through a combination of owned generation assets, long-term power purchase agreements, and real-time market purchases. If the City of Tucson were to municipalize, TEP would no longer need all of its power supply resources, or even the same types of generation resources and configuration of distribution resources to serve its remaining customers. In this instance, it is estimated that the City of Tucson condemning TEP's existing distribution system and no longer relying on TEP to supply power to customers within the city would result in stranded generation¹⁴ and stranded substation costs.¹⁵ If the City of Tucson were to municipalize, a detailed engineering study would need to be conducted to determine the stranded costs that would be created at the time of the proposed municipalization.

¹² See, *e.g.*, Iowa Utilities Board, Docket No. SPU-88-7, Order Denying Petition for Certificate Authority, August 2, 1990. Note, the fair value used for ratemaking purposes in Arizona is a regulatory construct that does not necessarily reflect the value that would be expected in the sale of TEP's electric distribution assets in the event of a municipalization, and therefore, is not relied on for purposes of this analysis.

¹³ The TEP electric distribution system was designed to serve all customers within the service territory regardless of whether they are located within or outside of Tucson city limits, and thus TEP's records do not specifically identify the distribution assets that are located within Tucson versus outside of Tucson in all instances. Therefore, this analysis reflects an estimate of the distribution assets that are located within the Tucson city limits; however, should Tucson decide to municipalize, a detailed engineering study and accounting analysis of TEP's electric distribution system assets would need to be conducted in order to determine those assets specifically located within Tucson city limits that would be condemned and subject to an acquisition.

¹⁴ The stranded generation cost is any revenue shortfall associated with the difference between TEP's cost of generation in the future relative to the cost of power in the market at that same time in the future.

¹⁵ This analysis includes an estimate of stranded costs related to distribution substations outside of Tucson that are currently used to serve load within Tucson.

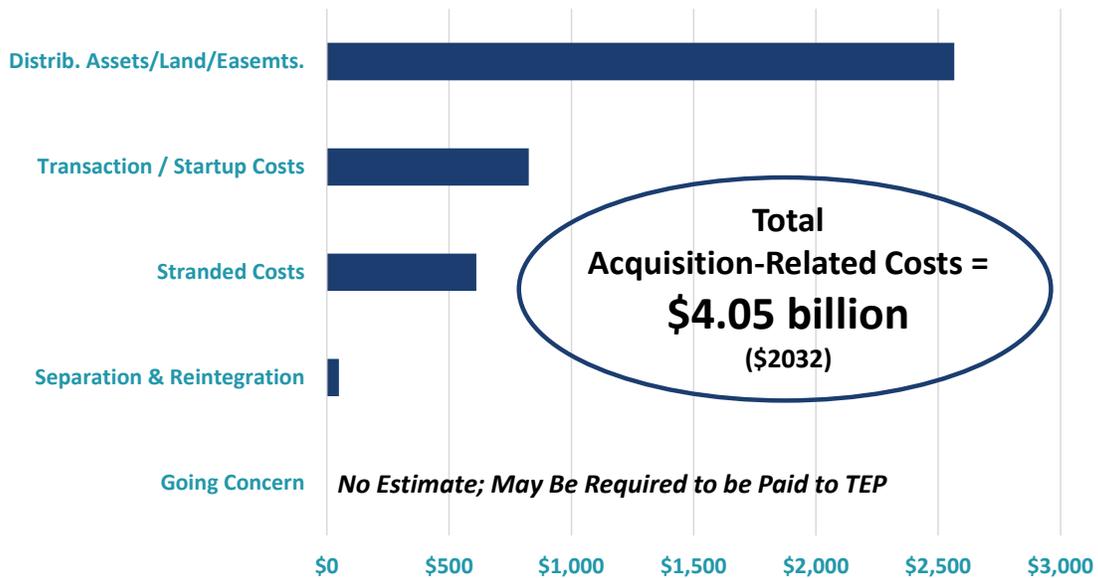
- Separation and Reintegration Costs: Given that each electrical system is configured differently, a detailed engineering study would need to be conducted to determine whether the remaining TEP electrical system could be severed from the new Tucson municipal utility and reconnected such that it could continue to operate as an integrated electric distribution system. Since such a detailed study has not been conducted, these costs have been estimated for this preliminary analysis.
- Transaction and Startup Costs: Transaction costs include estimates of the legal, engineering, and consulting costs, as well as the underwriting and issuance costs related to the municipalization effort. The startup costs include estimates of the costs necessary to implement a new electric utility, including financing the required capital expenditures for the first few years of service.¹⁶ The transaction and startup costs are estimated based on data obtained from prior municipalization efforts in other locations across the country.
- Going Concern: As noted, Arizona statutes require that any municipality condemning utility property must provide just compensation for the property, which includes, among other things, its value as a going concern. The amount of any going concern value is uncertain because it needs to be determined at the time of a taking. The analysis herein does not include any going concern value as part of the acquisition-related costs; however, the going concern that the city may be required to pay to TEP could be a material addition to the costs that Tucson would need to incur and finance as part of its condemnation should it decide to municipalize.¹⁷

Figure 3 summarizes the total acquisition-related costs estimated to be incurred by the City of Tucson if it decided to condemn and acquire TEP’s electric distribution system within the city limits.

¹⁶ The startup costs include: the cost of office space, fleet vehicles, equipment inventory, staffing, training, and information technology (e.g., hardware and software; cyber security measures; billing system; website; mobile app development) to begin operations; funding sufficient to cover projected initial capital expenditures of the new municipal utility; funding of a debt service reserve fund; and sufficient cash working capital to cover the initial costs of purchased power and associated transmission expenses, O&M expenses and the costs associated with customer assistance programs, as well as respond to unanticipated events.

¹⁷ For example, a well-respected legal treatise, Nichols on Eminent Domain (3rd Edition) notes that, “...in the ‘fair-value’ era [courts] regularly valued the going concern element as an added percentage of the cost of reproduction of the physical assets (between 7.5% and 25%).”

FIGURE 3: TOTAL ESTIMATED ACQUISITION-RELATED COSTS



Tucson Municipal Utility Annual Operating Costs

As shown previously in Figure 2, the annual debt service associated with financing acquisition-related costs is added to the other projected future costs to operate the municipal utility (*i.e.*, power supply; operations and maintenance (“O&M”) expenses; taxes and fees; customer program costs such as demand side management). The total of these costs represents the estimated future annual operating costs that a city-owned electric utility would need to recover from electric customers within the City of Tucson. Specifically:

- **Debt Service**: The acquisition-related costs to form a municipal utility would be financed through a combination of taxable debt and tax-exempt debt.¹⁸ Annual debt service costs would be a function of the amount to be financed and the corresponding interest rates at the time the acquisition-related costs needed to be financed based on the credit rating of a new city-owned electric utility. For this analysis, the interest rate for taxable debt is based on the projected 30-year US Treasury bond yield plus the spread between (1) the historical average 30-year Treasury yield and (2) the average Moody’s AA-rate utility debt yield. The interest rate for tax-exempt debt is based on the spread between taxable and tax-exempt debt issuances.

¹⁸ The acquisition of the electrical assets, land, and easements would be financed with taxable debt, while the remainder of the acquisition-related costs would be financed with tax exempt debt, and the analysis assumes all debt would be financed over a 30-year period.

- Power Supply Costs: The municipal utility is assumed to purchase all of its power supply requirements from one or more sources at market prices. To estimate the City of Tucson’s power purchase costs, a projected power price, inclusive of energy and capacity, is multiplied by the projected wholesale electric demand requirements in the City of Tucson each year of the forecast period. The future market prices of power reflect the energy price forecast in TEP’s most recent Integrated Resource Plan (“2023 IRP”).¹⁹ Thus, the level of clean energy assumed to be purchased by the City of Tucson reflects the proportion of clean energy reflected in the energy price forecast in the 2023 IRP.²⁰ In addition, a city-owned utility would also incur electric transmission costs to transmit its purchased power from the generating source to the City of Tucson, and it is assumed that the city would pay TEP for such transmission.

The level of renewable power utilized by the municipal utility in this analysis reflects the expected renewable resource mix of the market as reflected in the IRP. However, the City of Tucson has established a climate action plan that includes more ambitious carbon reduction targets.²¹ To the extent that these goals would drive an increased use of renewable energy resources, they would likely increase costs for a municipal utility as compared with the TEP.

- O&M Expenses: The projected annual O&M expenses that the city would incur are based on the actual O&M costs incurred by other municipal utilities in Arizona and elsewhere in the western United States.
- Taxes and Other Fees: TEP currently pays property taxes on the assessed value of its assets located within the City of Tucson, as well as a utility tax and a franchise fee to the city, which, in 2024, totaled approximately \$45 million. If the City of Tucson were to municipalize, TEP would no longer be required to pay these taxes and fees to the city. Therefore, to continue to fund city operations at existing levels, it is assumed that a municipal electric utility would provide a “payment in lieu of taxes” to the city’s general fund to replace the revenue to the city currently supplied through TEP’s rates

¹⁹ Tucson Electric Power, “2023 Integrated Resource Plan,” November 1, 2023.

²⁰ When the IRP was published, the state was operating under a Renewable Energy Standard and Tariff that required utilities to source a minimum of 15 percent of their power from renewable resources by 2025. Utilities have also adopted plans to invest in clean energy at their own targeted rates. For example, the Salt River Project has established its own voluntary commitment to reduce carbon emissions by 90 percent below 2005 levels by 2050. However, since the filing of the IRP, certain utilities have revised their clean energy goals due to the state’s growing energy demands (see, e.g., Reagan Priest, “Arizona governor defends utility financing bill despite APS clean energy setback,” Arizona Capital Times, August 12, 2025).

²¹ <https://climateaction.tucsonaz.gov/pages/caap>.

for these taxes and fees. The total amount of taxes and fees currently recovered through TEP’s rates is assumed to continue in the cost of municipal operation of the system.

- **Customer Programs:** It is assumed that the city would continue programs associated with demand side management and renewable energy as currently being recovered by TEP.

Figure 4 summarizes the projected revenue requirement of a new City of Tucson municipal electric utility over the 20-year forecast period.

FIGURE 4: A TUCSON MUNICIPAL ELECTRIC UTILITY’S PROJECTED ANNUAL COST TO SERVE

<i>in \$millions</i>	Year 1 2032	Year 5 2036	Year 10 2041	Year 15 2046	Year 20 2051
Debt Service	\$251	\$295	\$350	\$418	\$502
Power Supply Expenses	\$412	\$510	\$680	\$872	\$1,110
O&M Expenses	\$194	\$220	\$258	\$303	\$355
Customer Programs	\$68	\$74	\$82	\$92	\$102
Payments in Lieu of Taxes and Fees	\$43	\$47	\$52	\$58	\$65
Total	\$968	\$1,147	\$1,423	\$1,742	\$2,135

Projected Future Cost of Electric Service – TEP Continuing to Provide Service to the City of Tucson

In effectively the same way as just described that the future electric cost of a new municipal utility is developed, a similar process is conducted to develop the projected future cost of TEP continuing to provide electric service to the City of Tucson. Specifically, a projected future TEP system-wide cost of electric service is developed for each year throughout the forecast period (*i.e.*, from 2032 through 2051) assessing changes to each of the utility’s functions (*i.e.*, the generation, transmission, and distribution functions). This analysis reflects:

- The initial costs of the projection are based on the costs reflected in TEP’s currently pending request for new, higher electric rates in late 2026 (“Pending Rate Case”).
- Projected capital investments and retirements for TEP’s generation, transmission, and distribution functions. Specifically:
 - TEP projects capital investments totaling \$3.2 billion from 2025 through 2029 associated with its electrical system in Arizona. Thereafter, the analysis assumes capital investment growth for TEP based on a five-year historical average growth

rate, as well as the specific changes in TEP's power supply portfolio (*i.e.*, both TEP-owned generation and its purchased power agreements) after 2029 as reflected in its 2023 IRP.

- Retirements reflect an historical average rate as well as the generation-related retirements identified in the 2023 IRP.
- The projected cost of TEP's future electric service reflects the costs associated with the same components reflected in the Tucson municipal utility's projected cost to provide electric service shown in Figure 4 (*i.e.*, power supply; O&M; debt service; property tax, franchise fee; public utility tax; customer programs), as well as also including the cost of federal and state income taxes and return on shareholder equity that are not part of the municipal utility's cost to serve.
 - The O&M cost for each function (*i.e.*, the generation, transmission, and distribution functions) is based on those costs as reflected in the Pending Rate Case and escalated thereafter at inflation.
 - TEP's power supply is based on the cost of its owned generation and purchased power contracts over time, and the cost of any market purchases. Projected future power supply requirements that exceed the supply capable of being provided by TEP's currently projected resources are assumed to be purchased in the market at the prevailing projected power price (inclusive of both energy and capacity).
 - The cost of capital and capital structure are the same as reflected in the Pending Rate Case.
 - The property taxes, franchise fees, and public utility taxes are assumed to be the same as those same costs are assumed for the City of Tucson municipal utility.
 - The projection includes the costs of all applicable revenue riders currently recovered from customers by TEP, including the costs associated with the customer programs that are also included in the cost to serve of the City of Tucson municipal utility.

TEP's existing costs and, in turn, electric rates are not currently calculated for Tucson residents and businesses on a stand-alone basis but rather are calculated on a system-wide basis. Accordingly, in order to compare the cost of a new municipal utility in the City of Tucson providing electric service to the cost of TEP continuing to provide the same service, the overall TEP system-wide cost of providing electric service must be allocated between the City of Tucson and the rest

of the system. Accordingly, TEP’s projected future system-wide cost of electric service is allocated between the City of Tucson and the remainder of TEP’s system based on the proportion of the projected future electric load requirements in the City of Tucson as a percentage of TEP’s total system load requirements in Arizona.

Figure 5 summarizes the projected cost of TEP continuing to provide the City of Tucson electric service over the forecast period.

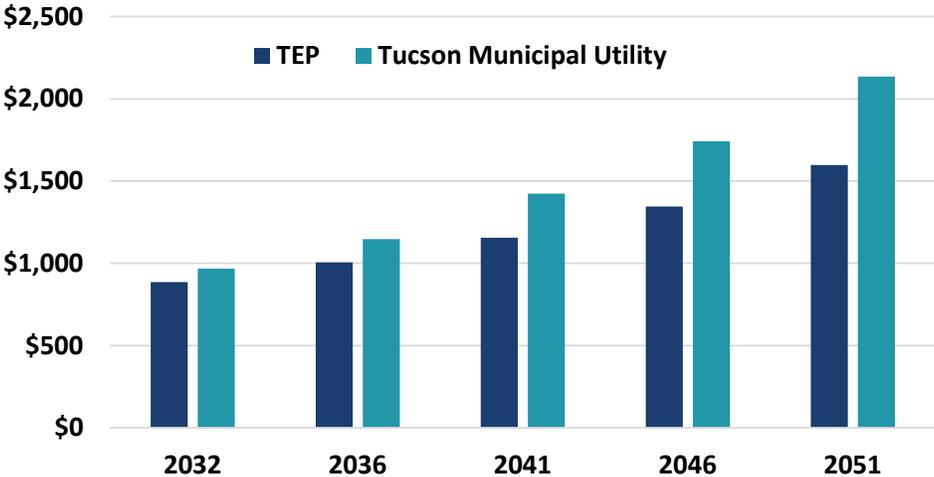
FIGURE 5: TEP’S PROJECTED ANNUAL COST TO SERVE TUCSON

<i>in \$millions</i>	Year 1 2032	Year 5 2036	Year 10 2041	Year 15 2046	Year 20 2051
TEP Projected Cost to Serve	\$885	\$1,007	\$1,155	\$1,346	\$1,597

Comparison of the Future Cost of Electric Service

When the projected future costs of electric service being provided by a City of Tucson municipal utility (shown in Figure 4) are compared to the projected future costs of that same service being provided by TEP (shown in Figure 5), it would be significantly more costly to customers in the city under a municipal utility ownership model. Figure 6 summarizes the annual cost increases projected under municipal operation over the forecast period.

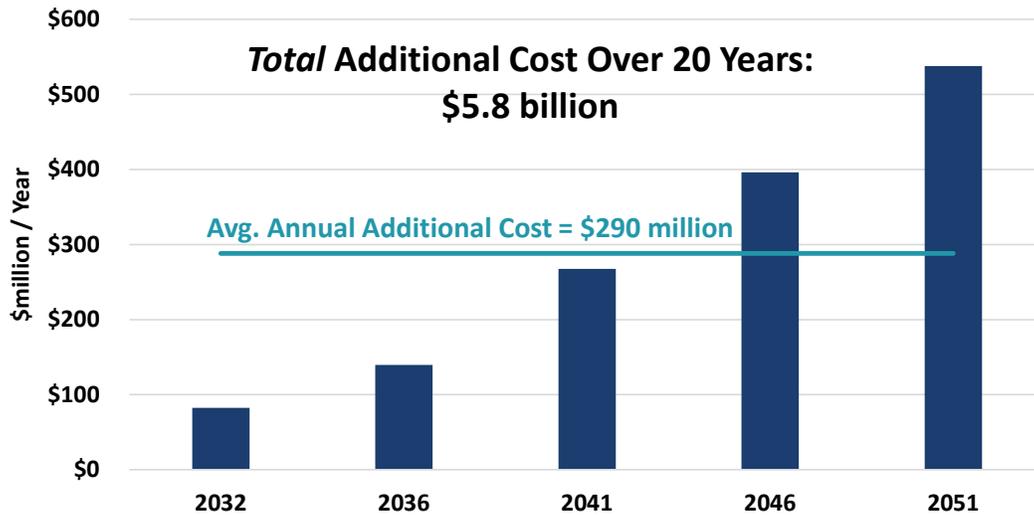
FIGURE 6: COMPARISON OF THE FUTURE COST OF ELECTRIC SERVICE



Summarized differently, as shown in Figure 7, the annual additional cost of a potential municipalization to residents of the City of Tucson is estimated to range from approximately \$80 million/year to over \$530 million/year over the 20-year forecast period. Thus, the incremental

cost to customers under a municipal utility model would average approximately \$290 million/year, and total approximately \$5.8 billion over the first 20 years of municipal ownership and operation.

FIGURE 7: ADDITIONAL COST OF MUNICIPAL OWNERSHIP OVER FIRST 20 YEARS



Based on the additional costs reflected in Figure 7 associated with a municipal utility model in the City of Tucson, Figure 8 presents the incremental costs projected to be incurred on an annual basis for an average residential electric customer in the city it were to municipalize.²²

²² The average annual cost increase to a residential electric customer in Tucson is based on average usage of 800 kWh/month.

FIGURE 8: ESTIMATED ANNUAL ELECTRIC BILL INCREASE FOR AN AVERAGE RESIDENTIAL CUSTOMER IF THE CITY OF TUCSON WERE TO FORM A MUNICIPAL UTILITY



Project Blue and the Feasibility of Municipalization in the City of Tucson

Project Blue is a proposed data center campus that would be located outside of the City of Tucson in Pima County, Arizona, representing one of the region’s largest economic development initiatives. The initial phase of the project (“Phase I”) anticipates the construction of up to 10 data center buildings, which in total would represent approximately \$3.6 billion in capital investment, with the first potentially operational by 2027.²³ In addition, the Project Blue developer is considering a second phase (“Phase II”) that would expand the number of data centers at the campus.²⁴

Since the electric rates proposed in TEP’s Pending Rate Case do not reflect the impact of either phase of Project Blue coming online,²⁵ the financial feasibility of a potential City of Tucson municipalization is also evaluated assuming: (1) the completion of Phase I; and (2) the completion of both Phase I and Phase II. These additional scenarios are evaluated to account for both the cost of the additional infrastructure that would be required to serve the full project, as well as the substantial load that would also be added to the system, based on the information currently available from TEP. Despite the additional investment that would be required to serve the fully developed project, providing service to Project Blue is expected to lower the projected average overall TEP system rate. In contrast, given that Project Blue would be located outside of the City of Tucson, a future municipal utility’s cost to serve is not projected to be materially affected by

²³ Pima County Economic Development, Project Blue FAQ.

²⁴ City of Tucson, Project Blue FAQ.

²⁵ Press Release, “TEP Rate Review Request Not Influenced by ‘Project Blue’,” TEP, June 2025.

the completion of either Phase I or Phase II.²⁶ As a result, all else equal, either Phase I or Phase I/Phase II is expected to lower TEP’s overall rate, while not having a material impact on the city’s future municipal utility rate, which means that Project Blue would be expected to result in an even larger incremental cost to customers in the City of Tucson if a municipal electric utility is formed.

Figure 9 compares the annual incremental cost of municipalization to electric customers in the City of Tucson under the three scenarios discussed. As shown, under all three scenarios the creation of a municipal electric utility in the City of Tucson is not considered to be financially feasible.

FIGURE 9: COMPARISON OF ANNUAL AND CUMULATIVE INCREMENTAL COST OF MUNICIPALIZATION TO TUCSON CUSTOMERS OVER 10 YEARS

<i>in \$millions</i>	Year 1 2032	Year 5 2036	Year 10 2041	Cumulative Add'l Cost 10 Yrs
Base Case	\$82	\$140	\$268	\$1,517
Project Blue - Phase I	\$153	\$206	\$276	\$2,068
Project Blue - Phase I & II	\$233	\$291	\$400	\$2,995

Additional Factors to Be Considered Beyond Financial Feasibility

In addition to considering whether municipalization in the City of Tucson would be financially feasible, numerous additional factors are critical for stakeholders to consider when weighing whether to pursue municipalization. These considerations include – but are not limited to:

- 1) The time and resources that would need to be devoted to the municipalization process, which can be lengthy, litigious, and costly, and whether those resources are better spent elsewhere;
- 2) Whether the municipality has the expertise to provide safe, reliable, and efficient electric service;
- 3) The inherent risk associated with the level of future electric rates given that the decision to pursue municipalization must be made, sometimes years in advance of taking

²⁶ The additional infrastructure would impact TEP’s overall generation costs and thus impact the stranded generation costs that a new municipal utility in Tucson would be required to pay TEP should it decide to municipalize. However, the commencement of Project Blue Phase I, or both Phase I and Phase II, are estimated to have a relatively minimal impact on the overall cost to serve a new Tucson municipal utility.

ownership, without definitively knowing whether municipalizing the utility is financially feasible;

- 4) There is no third-party evaluation of a municipal utility's operations or rates, nor is there any outside shareholders who assume financial risk; instead, all benefits and risks of municipal electric operations, including full cost recovery, are directly assigned to customers by the municipality; and,
- 5) The differences between the governance of a municipal utility versus the existing federal and state regulatory structure under which investor-owned utilities operate, and any potential risks related to possible organizational or political influence over the municipal utility operations.

All of these factors, which are explained in more detail below, are important and can affect both the long-term financial feasibility and successful operations of a municipal electric utility should Tucson decide to proceed with municipalization.

Municipalization Can Be Lengthy, Litigious, and Costly

Recent experience with municipalization initiatives demonstrates that the process from initiation to acquisition can take as long as a decade and yet may not result in a municipal utility. During this period, the electrical system is still owned and operated by the existing utility, which must continue to make additional investments to meet its obligation to serve. As a result, the timeline and cost associated with any potential acquisition – before a municipal utility even commences service – is undefined and can often be significant. These costs include legal, engineering, consulting, and other expenses related to, among other things, identifying the assets to be condemned, evaluating the physical connection of the new municipality and the reconnection of the existing utility's system, and identifying the existing utility's investments that are no longer used or useful post-municipalization but the costs of which are allocable to the acquiring municipality.

Further, due to the duration of the municipalization process and the increasing complexity and pace of change for the electric grid, there is the potential for significant changes in market conditions, technology, system investments, and other circumstances that subsequently can affect or alter a community's initial decision-making regarding benefits of condemnation. Thus, voters need to carefully consider whether municipal resources – including time and tax dollars – that are most effective in pursuing the condemnation of utility property and establishing a new municipal utility versus other important community initiatives, especially in situations where municipal budgets are constrained.

For example, as discussed, the taxpayers of Boulder, Colorado spent approximately \$30 million over ten years before abandoning its municipalization effort and renegotiating a new franchise agreement with the existing utility. Likewise, Chicago, Illinois considered and abandoned its municipalization effort, due in large part to the high cost of separating and acquiring the system.

Capability to Execute / Provide Electric Utility Service

Electric service is critical for the welfare and livelihood of the residents and businesses of any municipality. As such, voters must consider whether their municipality has or has planned for the expertise to operate the electric system reliably, safely and efficiently if municipalization is pursued, including the ability to hire, train, and retain the necessary workforce. It is important to ensure that the municipality is planning for and successfully implementing required future system investments and services, fortifying the electric system against natural disasters, ensuring the reliability of the system and efficiently managing outage and storm responses, among other factors. The complexity of the electric distribution system and a municipality's capability to operate such system is particularly important to consider in the wake of rapid utility industry and technological changes, including grid modernization, distributed generation (*e.g.*, rooftop solar), and increasing climate-related and cyber security threats.

The Cost of Future Municipal Utility Service Is Unknown

While the future cost to condemn an existing utility's electric assets and subsequently establish and operate a municipal utility can be estimated, there is significant uncertainty regarding those ultimate costs since (1) the cost to acquire the existing utility's electric assets is not determined until the municipalization is finalized after a lengthy process; and (2) the future cost of establishing and operating a municipal utility is not known until the commencement of municipal utility operations. In other words, community members need to consider that the decision to pursue municipalization must be made, sometimes years in advance of taking ownership, without knowing whether municipalizing the utility is financially feasible.

There are many cost components of acquiring an existing utility's assets and subsequently establishing and operating a municipal utility, and legislative requirements and/or case law require that the departing municipality bear the entirety of the costs of a municipalization. While the costs can be undefined for years, the totality of these costs influence the ultimate rates to be paid by municipal electric customers. For example, the costs herein evaluating the financial feasibility of a municipal utility in the City of Tucson reflect only a preliminary estimate of the acquisition-related costs that customers would incur to form a new municipal utility. As such, further detailed analysis would be required if a condemnation and municipalization of TEP's assets were to occur, including determining the extent and cost of the separation and

reintegration of one electric distribution system into two electric distribution systems, and establishing the value for going concern, which, as noted, has not been estimated for purposes of the preliminary analysis of the financial feasibility herein.

No Sharing of Risks / Cost Recovery

An investor-owned utility is subject to the regulatory oversight of a public utility commission, and the risks associated with owning and operating an electric utility under this model are shared between electric customers and the utility's shareholders. Utility rate regulation in the United States specifies that investor-owned utilities must be provided a reasonable opportunity to recover their prudently incurred costs of providing utility service to their customers, but that cost recovery is not guaranteed. Therefore, the shareholders of investor-owned utilities bear the risk that the costs incurred by the utility to provide electric service to customers will not be fully recovered. In contrast, under municipal ownership, there is no third-party evaluation of the municipal utility's operations and there are no shareholders that assume the financial risk. Under municipal operation, all benefits and risks of municipal electric operations, including full cost recovery, are directly assigned to electric customers by the municipality.

Utility Governance / Oversight

As noted, the state public utility commission reviews the costs and operations of an investor-owned utility and authorizes the costs that the utility can recover from customers through a public and transparent process involving various stakeholders, including customer advocacy groups, customers, and, in the instance of TEP's rate cases, the City of Tucson. This third-party review of the costs and operational decisions of the utility provides benefits to customers that are not contemplated in most municipal ownership structures. Since a municipal utility generally would not be subject to public utility commission oversight, community residents should consider the differences between the governance of a municipal utility versus the existing federal and state regulatory structure under which investor-owned utilities operate. While local governance of utility operations can be considered a benefit, it is important to consider the value of a public and transparent third-party review of operations and costs, and any potential risks related to possible organizational or political influence over the municipal utility operations.

City of Tucson's Financial Feasibility Analysis

On April 22, 2025, the City of Tucson published a draft study conducted by GDS Associates, Inc. and Best Best & Krieger LLP that evaluated, among other things, the financial feasibility of the

City of Tucson forming a municipal utility (“Tucson Study”).²⁷ The Tucson Study concludes that condemnation of TEP’s electric distribution system in the city would be financially feasible, which as discussed herein, is contrary to our conclusion. While there are numerous differences between the Tucson Study and our analysis, a key factor driving the different results, and thus conclusion, is the Tucson Study’s assumption regarding the rate at which TEP’s future rates will increase.

As discussed, determining whether municipalization is financially feasible compares an estimate of the future rates that TEP would charge residents of Tucson as compared to an estimate of the rates that a potential new Tucson municipal electric utility would charge. The Tucson Study assumes that TEP’s future bundled retail rate would increase an average of 3.5% per year throughout the evaluation period.²⁸ However, this assumption does not evaluate specific changes to TEP’s rates, but rather is based, at least in part, on historical inflation – calculated during a period when inflation was at its highest in the past 40 years. A more detailed review of publicly-available information regarding TEP’s projected future power supply and non-power supply costs, including projected changes in its power supply portfolio, future system capital investments, and load growth, indicates that the Tucson Study significantly overestimates TEP’s future bundled rates, and as a result, produces an inaccurate conclusion as to the future financial feasibility of a municipal electric utility in the City of Tucson.

As discussed herein, instead of assuming that TEP’s rates simply increase 3.5% annually in the future, we analyze and estimate the components of TEP’s future bundled retail rate in more detail (*e.g.*, changes in generation, transmission, and distribution costs) when comparing against an estimate of the future rates for a new municipal utility in Tucson. Reflecting these changes projected by TEP as compared against the cost of a future municipal utility in Tucson indicates that municipalization would be more costly for electric customers in Tucson – which is consistent with the findings of numerous other communities that have explored municipalization.

In addition to the significant difference in the estimate of TEP’s future electric rates, there are two additional key assumptions in the Tucson Study with which we disagree that also impact the conclusions regarding financial feasibility:

²⁷ City of Tucson Energy Sourcing Study, Draft Report, GDS Associates, Inc. and Best Best & Krieger LLP, April 22, 2025.

²⁸ Tucson Study, at 41. The Tucson Study assumes that TEP’s future power supply costs increase at an average of 3.4% per year (which is unexplained) and TEP’s non-power supply costs increase at 3.7% per year (which is based on the 7-year average increase in the Consumer Price Index from 2017 through 2024).

- Start of Municipal Utility Operations in January 2028 – The Tucson Study appears to acknowledge that such an assumed start date is unrealistic, noting that this date was less than 3 years away at the time the study was released (and is now less than 2 years away).²⁹ As discussed, the municipalization process, if pursued, can take many years – up to a decade or more – depending on the specific circumstances. Thus, it is not realistic to assume that municipal operations would start in January 2028. The date assumed for the start of municipal operations affects the financial feasibility analysis since, as the Tucson Study correctly recognizes, additional investments will need to continue to be made in the electric system and thus the cost for the City of Tucson to acquire and subsequently operate the system would also increase.
- Ability to Acquire the Infrastructure at Net Book Value – One scenario in the Tucson Study evaluates financial feasibility assuming the city could acquire TEP’s electric assets at “original cost less depreciation,” or the net book value of those assets. Based on the limited instances in the past quarter century where municipalization actually occurred, the numerous instances in which municipalization has been considered but not gone forward, and the legal municipalization process in Arizona, it is unlikely that a new municipal utility in Tucson, created through a condemnation of TEP’s assets, would be able to take over those assets at their existing net book value.

While we disagree with the Tucson Study’s conclusion regarding financial feasibility, we do agree with its finding that, “pursuing and establishing a municipal utility entails significant risks and considerable effort. Ultimately it would require strong resolve and leadership from City officials.”³⁰ As just discussed in the preceding section, in addition to financial feasibility, there are numerous operational, governance, and other factors that voters in the City of Tucson should seriously evaluate when considering whether to pursue municipalization.

Conclusion

It is important for communities considering municipalization to evaluate numerous factors – both financial and non-financial – before deciding to proceed. The focus of the analysis herein is the financial feasibility of a potential municipalization. Based on the analyses presented, acquiring TEP’s assets and operating a municipal electric utility would result in higher overall electric rates for the residents and businesses of the City of Tucson. The potential development of Project

²⁹ Tucson Study, at 21.

³⁰ Tucson Study, at 3.

Blue may exacerbate this disparity, as the project's consistent energy use may contribute revenue that promotes greater affordability for TEP's remaining customers.

The conclusion that municipalization is not expected to be financially feasible for the City of Tucson is consistent with the financial, operational, and other challenges acknowledged by most municipalities that have explored this option in the past quarter century. While many municipalization efforts have been initiated in the past 25 years, less than 10% of these efforts have resulted in a new municipal electric utility being established that remains in service today. The most recent municipalization occurred more than a decade ago through a settlement with the existing utility as opposed to extensive and lengthy litigation that is typical of the way in which municipalization initiatives have unfolded. Therefore, while it is possible in certain circumstances that condemnation of existing electric utility assets and the formation of a municipal electric utility may provide future benefits to customers, many communities have concluded that doing so is uneconomic. Therefore, it is important for the City of Tucson to evaluate the time, costs, and risks – which include financial, operational, and governance issues – that would be associated with taking over and operating TEP's electric distribution assets within the city.

Appendix A

Municipalization Case Studies

Below are examples of municipalizations that have been completed in the past two decades (Jefferson County, Washington and Winter Park Florida) and more recent examples of abandoned municipalization efforts (Boulder, Colorado, Chicago, Illinois, and the State of Maine).

Completed Municipalization Initiatives

Jefferson County, Washington

In 2008, voters in Jefferson County, Washington initiated a process for the county to acquire the electric distribution assets of Puget Sound Energy (“PSE”) in the county that served approximately 18,150 customers. The effort was primarily driven by the desire for local control over its electric service. The initial estimate for JPUD to acquire PSE’s electric facilities was approximately \$47 million, and was approximately \$66 million including separation, start-up, and legal costs, working capital, and financing expenses.³¹ JPUD reached a settlement with PSE to acquire the system after a negotiation that lasted approximately two years. Pursuant to a negotiated sales process, JPUD agreed to pay PSE approximately \$109 million, or approximately 1.65 times the county’s initial cost projection and 2.34 times the net book value of the assets acquired.³²

The JPUD transaction was unique due to the size and location of the service area, which represented a relatively small number of customers at the end of PSE’s existing distribution system and provided the opportunity to sever a comparatively high-cost area from PSE’s existing electrical system with minor impacts to the remainder of the system. In addition, after JPUD took ownership, PSE agreed to continue to operate the assets for the first three years. Thus, approximately five years after initiating the municipalization process, JPUD began operation of the electric distribution assets it acquired in April 2013.

The benefits of JPUD’s municipalization were subsequently questioned in a report evaluating the outcome of the initiative. The report indicated that while advocates for municipalization expected that the county’s rates would remain low and could decrease, approximately three years after commencing municipal utility operations JPUD customers were paying more than if

³¹ D. Hittle & Associates, Inc., “Final Report, Preliminary Feasibility Study, Public Utility District No. 1 of Jefferson County Electric System Acquisition,” October 24, 2008, at 21.

³² Washington Utilities and Transportation Commission, Docket UE-132027, Order 04, September 11, 2014, at 1. JPUD’s initial loan was \$115 million, thus indicating that approximately an additional \$6 million was incurred by JPUD related to the municipalization.

they had remained with PSE. In addition, the report also identified other challenges that had arisen, including billing problems, nearly eliminating a program for low-income assistance customers, low customer satisfaction based on the results from JPUD's own survey, and significant issues with the utility's financial management as identified by the Washington State Auditor.³³

Rate comparisons inherently require assumptions to establish comparability across the number of variables and decisions that affect customer rates and the timing of rate increases. Given that is the case, more than ten years after JPUD began operations, the cost to an average residential customer of JPUD is currently slightly lower than the cost charged by PSE, although JPUD's rates have been relatively higher or lower over time based on the timing and extent of rate changes.

Consistent with many other utilities across the U.S., JPUD projects an increase in power usage due to electrification, thus requiring additional investment over the next ten years. Since JPUD has noted that its number of customers has not increased at the same rate,³⁴ the incremental investment could place future upward pressure on rates. Therefore, since PSE is in the middle of its investment to meet state policy goals, and JPUD is forecasting the need for these investments in the future, it is unclear whether the rate comparison discussed previously represents a timing difference in needed investments or a sustainable cost savings for customers.

Winter Park, Florida

Winter Park commenced operations of its municipal utility in June 2005 after acquiring the electric distribution assets of Progress Energy (now Duke Energy Florida) within the city that served approximately 14,000 customers. While the acquisition was decided through an arbitration process rather than litigation, the process lasted approximately five years. The city's original estimated acquisition cost was approximately \$16 million (exclusive of stranded costs and going concern value), and the final acquisition price determined through arbitration was approximately \$42 million (including \$10.7 million for stranded costs and \$12 million for going concern value). The going concern value represented approximately 65% of the value of the equipment, land and easements, and books and maps that were acquired.³⁵

³³ Todd Myers, "The failed promises and politics of Jefferson Public Power: How creation of a public electric utility led to higher rates and lower customer service," Washington Policy Center, December 2016.

³⁴ Elijah Sussman, "Jefferson PUD leadership presents vision for next 10 years," Peninsula Daily News, August 3, 2024.

³⁵ See, e.g., Florida Public Service Commission, Rebuttal Testimony of Javier Portuondo, Docket No. 050078-EI, August 5, 2005, at 18; City of Winter Park, "Our Municipalization Story," 2011, at 19.

While the municipally-owned electric utility has achieved local control, enhanced reliability, and competitive rates, the city acknowledged that it faced significant challenges in its initial ownership and operation of the electric distribution system.³⁶ For example, after a few years into taking over ownership and operation of the electric operations, the city was placed on credit watch negative by Fitch Ratings due to declining liquidity and a debt service coverage ratio well below 1.0, the city's rates were higher than those of the former utility, and the municipal electric utility experienced significant revenue deficiencies requiring the need to draw down the city's cash position.³⁷

After approximately 20 years of municipal operation, improvements have been made regarding reliability and rate competitiveness, with the cost to an average residential customer in Winter Park now being less than the current cost for a residential customer taking service from the former investor-owned utility. In addition, the city's municipal electric utility has also achieved financial stability, as the debt service ratio has well exceeded its minimum benchmark for the past decade.³⁸ The city has established a renewable energy plan to be 80 percent renewable by 2035 and 100 percent renewable by 2050; however, such plan is limited given that the Winter Park is managing its rate increases, and thus investments in renewables, such that the city's rates produce at least a five percent discount to the rates charged by Duke Energy.

Recently Abandoned / Rejected Municipalization Initiatives

Boulder, Colorado

In 2005, Boulder, Colorado began a municipalization initiative with a preliminary feasibility study to acquire the electric distribution system serving the city and its approximately 43,000 customers that was owned by Xcel Energy Inc. ("Xcel"). Boulder's motivation to form a municipal electric was largely driven by a desire for greater renewable energy generation relative to Xcel's generating portfolio at that time. In 2010, the Boulder City Council voted to end its franchise agreement with Xcel, and in 2011 voters approved funding to start the municipalization effort.³⁹ Over the course of the next decade, Boulder and Xcel engaged in significant litigation regarding

³⁶ City of Winter Park, "Our Municipalization Story," 2011, at 19.

³⁷ City of Winter Park, "Winter Park Electric Rate Study," Presentation to the Utility Advisory Board, April 22, 2009, at 2-5.

³⁸ City of Winter Park, Annual Comprehensive Financial Report, March 29, 2024, at 148.

³⁹ Michael Elizabeth Sakas, "Boulder Ends Decade Long Pursuit Of City-Owned Power Utility," CPR News, November 20, 2020.

the acquisition until, in November 2020, voters approved a ballot measure allowing the city to enter a 20-year franchise agreement with Xcel, thereby ending the lengthy municipalization initiative.⁴⁰

During the decade-long municipalization effort, both the estimated costs to acquire Xcel’s electric system and the costs incurred by the city to finance the ongoing municipalization effort increased considerably. For example:

- The acquisition cost was initially estimated at less than \$140 million, yet increased substantially throughout the process, and ultimately far exceeding the \$213 million cap that voters established in 2013 as the amount of debt that could be issued for the acquisition.⁴¹ Furthermore, when the franchise agreement with Xcel was reinstated, Boulder city staff acknowledged that the ultimate acquisition cost was unknown and that a final estimate was at least two years away.⁴²
- By the time that voters approved reinstating the franchise agreement with Xcel, Boulder taxpayers spent nearly \$29 million pursuing municipalization.⁴³ As noted by the city, the initiative required significant time from city personnel, with seven staff members devoting more than 50% of their time to the initiative and dozens more spending between 1% and 20% of their time on the initiative.⁴⁴

Boulder’s settlement with Xcel included Xcel achieving an 80% carbon emissions reduction target by 2030 relative to 2005 levels, pilot programs for other clean energy initiatives, working jointly with the city on local grid planning, and funds over the franchise agreement specifically to increase reliability, among other efforts.⁴⁵ In addition, the settlement preserved Boulder’s right to opt out of the franchise agreement to pursue municipalization at specific points during the

⁴⁰ Allen Best, “As costs rack up in Boulder’s push to split with Xcel, voter to have the final say,” Energy News Network, October 27, 2020; Michael Elizabeth Sakas, “Boulder Ends Decade Long Pursuit of City-Owned Power Utility,” Colorado Public Radio, November 20, 2020.

⁴¹ See, e.g., Richard Williamson, “Boulder voters call off quest for municipal electric utility,” The Bond Buyer, December 8, 2020; Alex Burness, “Boulder says municipalization ruling adds \$23M to city’s costs,” September 23, 2017.

⁴² “Boulder ends 10-year municipalization effort as votes OK historic deal with Xcel,” Boulder Beat, November 4, 2020.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See, e.g., Emma Penrod, “Budget pressures, COVID-19 drive Boulder to settlement talks with Xcel Energy,” Utility Dive, August 11, 2020; “Boulder ends 10-year municipalization effort as votes OK historic deal with Xcel,” Boulder Beat, November 4, 2020; “Boulder 101: The Muni,” Boulder Beat, September 10, 2020.

agreement while also allowing the city to terminate the agreement at specific points if Xcel fails to meet its carbon emissions reduction benchmarks.⁴⁶

Chicago, Illinois

In 2019, Chicago initiated a process to evaluate the feasibility of acquiring the distribution assets within the city limits owned and operated by the investor-owned utility, Commonwealth Edison Company (“ComEd”), which served approximately 3.1 million customers in the city. In August 2020, a preliminary feasibility analysis conducted on behalf of Chicago concluded that rates would be more than 40% higher in the first year of service under municipal operation as compared with the rates projected under continued operation by ComEd,⁴⁷ and were projected to be higher for customers over the entire 20-year study period.⁴⁸ In addition, the study concluded that, while Chicago had established several strategic goals and objectives related to electric utility operations, alternatives to municipalization could also be consistent with those strategies and public policy objectives.⁴⁹

As a result of the study’s findings, the city abandoned its consideration of establishing a municipal utility, determining that doing so would not be financially feasible. Instead, the city indicated that it would focus on negotiating with ComEd on the mayor’s policy objectives of rate affordability, energy and sustainability, equitable economic development, and transparency.⁵⁰

State of Maine

In April 2019, a bill was introduced in the Maine legislature with the intention of condemning the investor-owned electric utilities in the state and establishing the Maine Power Delivery Authority (“MPDA”). The MPDA was to operate as a public power agency and provide electric service to the customers that had been served by the state’s two investor-owned utilities, Central Maine Power (“CMP”) and Versant Power (“Versant”). The scope of the proposed action was unprecedented, as, together, CMP and Versant distribute power to approximately 97% of electric customers in Maine. The bill was introduced based on objectives of local control of the utilities, as well as improvements in other factors, including system reliability, customer service, and rates.

⁴⁶ Emma Penrod, “Budget pressures, COVID-19 drive Boulder to settlement talks with Xcel Energy,” Utility Dive, August 11, 2020.

⁴⁷ Mayor’s Press Office, “City of Chicago Releases Findings of Preliminary Municipal Utility Feasibility Study; Study finds that municipalization of electric utility is not financially viable,” Press Release, August 28, 2020.

⁴⁸ “Preliminary Municipal Utility Feasibility Study,” NewGen Strategies & Solutions, August 2020, at Report Summary.

⁴⁹ *Id.*

⁵⁰ *Id.*

The Maine Public Utilities Commission commissioned a study on the formation of public power in the state, which was issued in February 2020. The report did not make a specific recommendation as to whether the state should proceed with the condemnation of the utilities' assets. However, it addressed a number of factors for consideration and found that, based on a variety of assumptions, under a base case scenario, customers would be worse off with the MPDA for the first nine years before savings started; meanwhile, under a scenario where the cost to condemn and acquire the assets was higher, customers would be worse off for the first 18 years.⁵¹

While the Governor of Maine vetoed the original bill, the initiative became a referendum question posed to voters during the 2023 state election, with a new quasi-governmental, non-profit entity called Pine Tree Power taking the place of the MPDA, with the same intention to condemn the assets and take-over the operations of CMP and Versant. In November 2023, the voters of Maine overwhelmingly rejected the referendum for the State to create a public power utility with 70% of the vote.⁵²

⁵¹ "Evaluation of the Ownership of Maine's Power Delivery System," London Economics International LLC, February 15, 2020, at 8.

⁵² Kate Cough, "Pine Tree Power proposal decisively voted down," The Maine Monitor, November 8, 2023.