

## The Condemnation Process in California

- LAFCO process
- Identify or create condemning authority
- Prepare appraisal
- Pre-condemnation offer and negotiations
- Resolution authorizing condemnation
- Election on tax increase to fund condemnation (2/3 vote)
- Phase I: Bench trial on "right to take" and public necessity
- Phase II: Jury trial on valuation
- Not a free look: Owner's fees paid**
- Generally a 5-10 year process (with appeals)

## Right to Take Not Absolute in California

Water company may rebut the presumption of necessity at trial.

City of Claremont v. Golden State Water Company (2016)  
(Superior Court December 2016):

“Judge Rejects Claremont’s Bid for Local Water Control”

*Claremont Courier*  
November 17, 2016

“Water Co. Wins 7.6M After Calif. City Loses Takeover Bid”



March 14, 2017

## A Waste of Public Funds

City of Claremont Settlement:

- \$2 million to Golden State Water up-front
- \$2.8 million to Golden State Water in interest over 12 years
- Plus \$5.8 million should City of Claremont try to condemn again within 12 years
- Not to mention City of Claremont's own \$6+ million in attorney's fees...

### **Claremont Councilman Sam Pedroza:**

*“We did everything that we could. A lot of lessons learned – a lot of expensive lessons – but today’s decision ends this chapter.”*

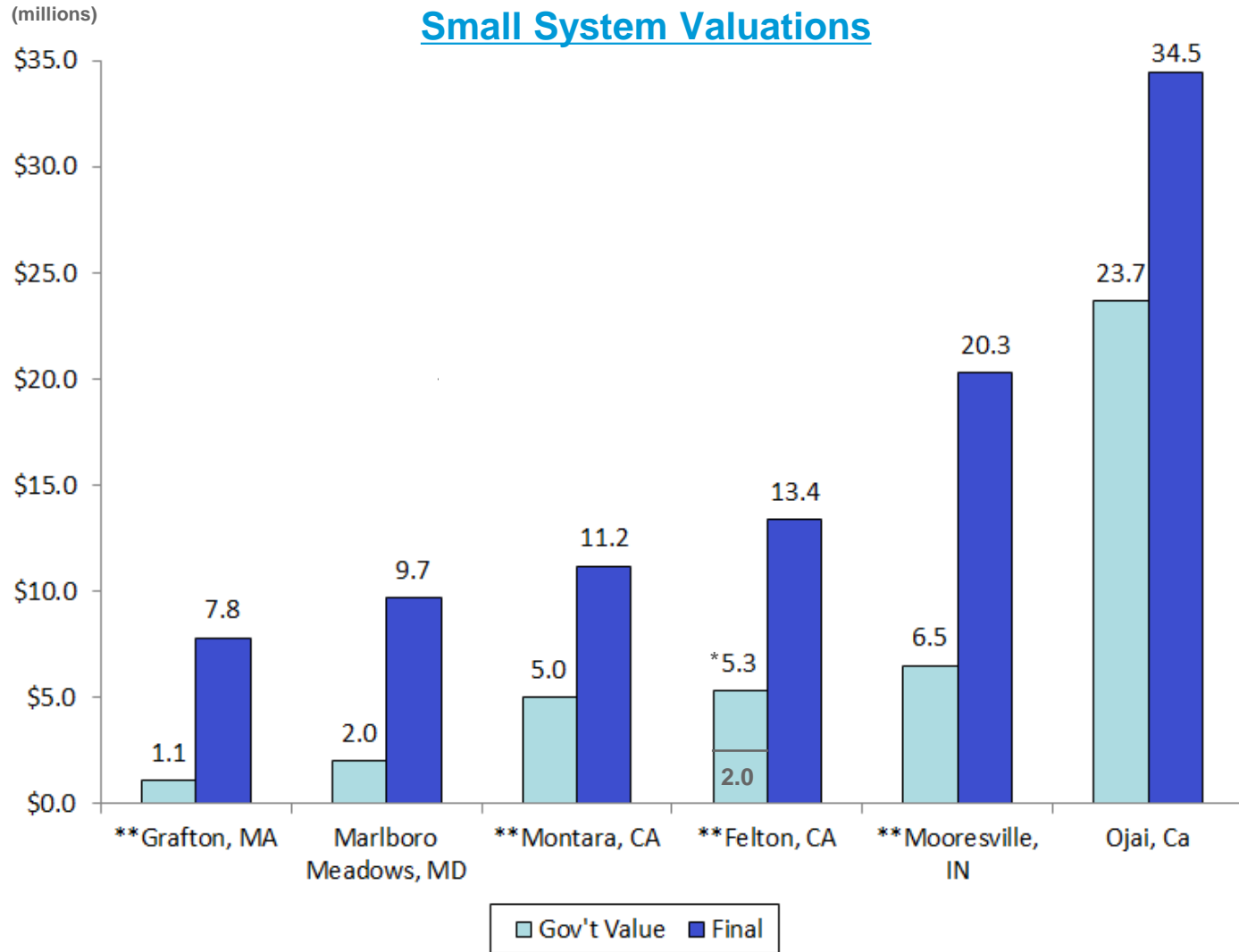
## The Standard of Value in California

The current fair market value of all the company assets as of the date of valuation – not simply what is reflected in Rate Base.

California law says: Fair market value is the **highest price** for the property a willing buyer would pay in cash to a willing seller.

**Plus** severance damages.

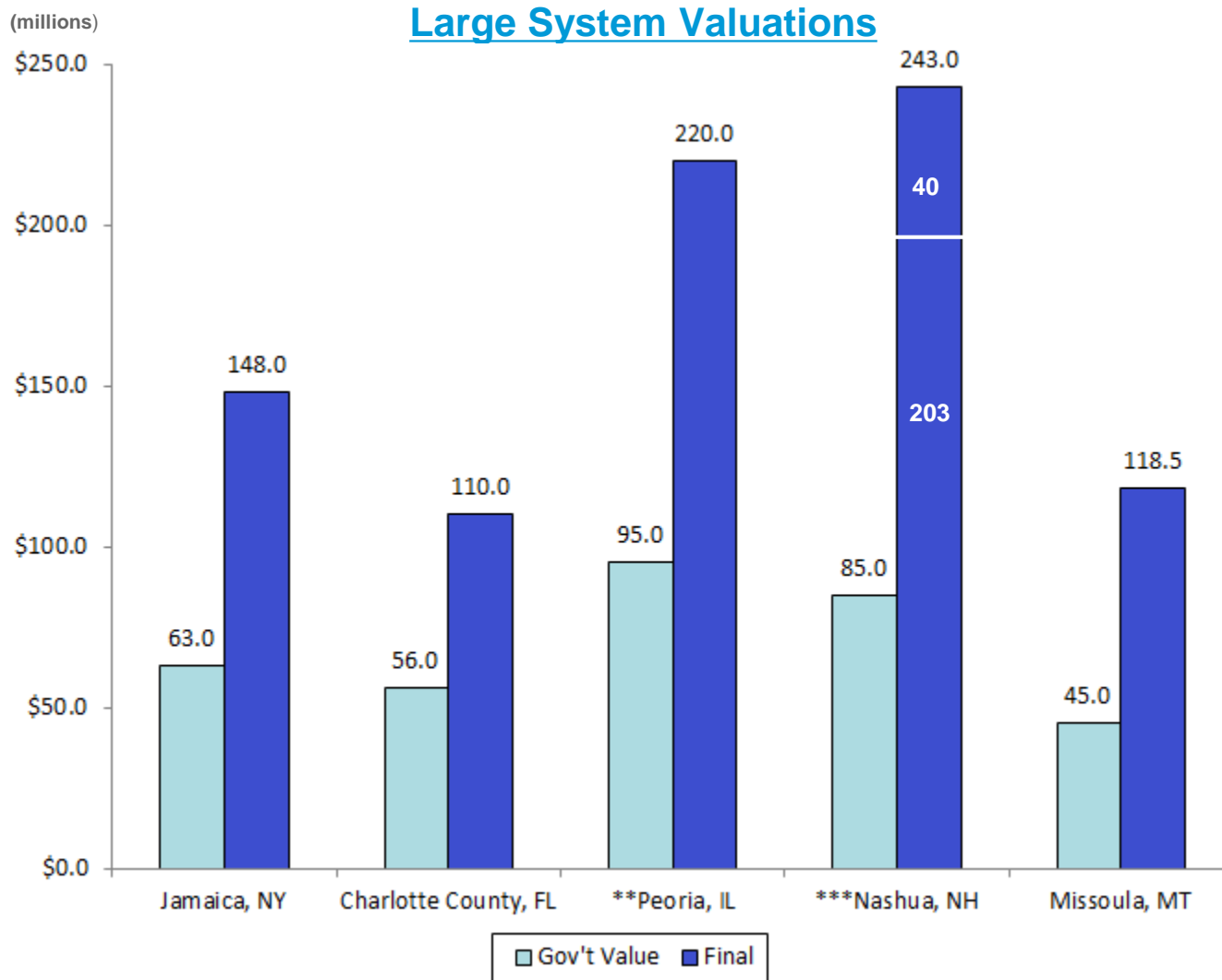
# Government Valuation vs. Actual Price



\*operating assets

\*\*denotes American Water system

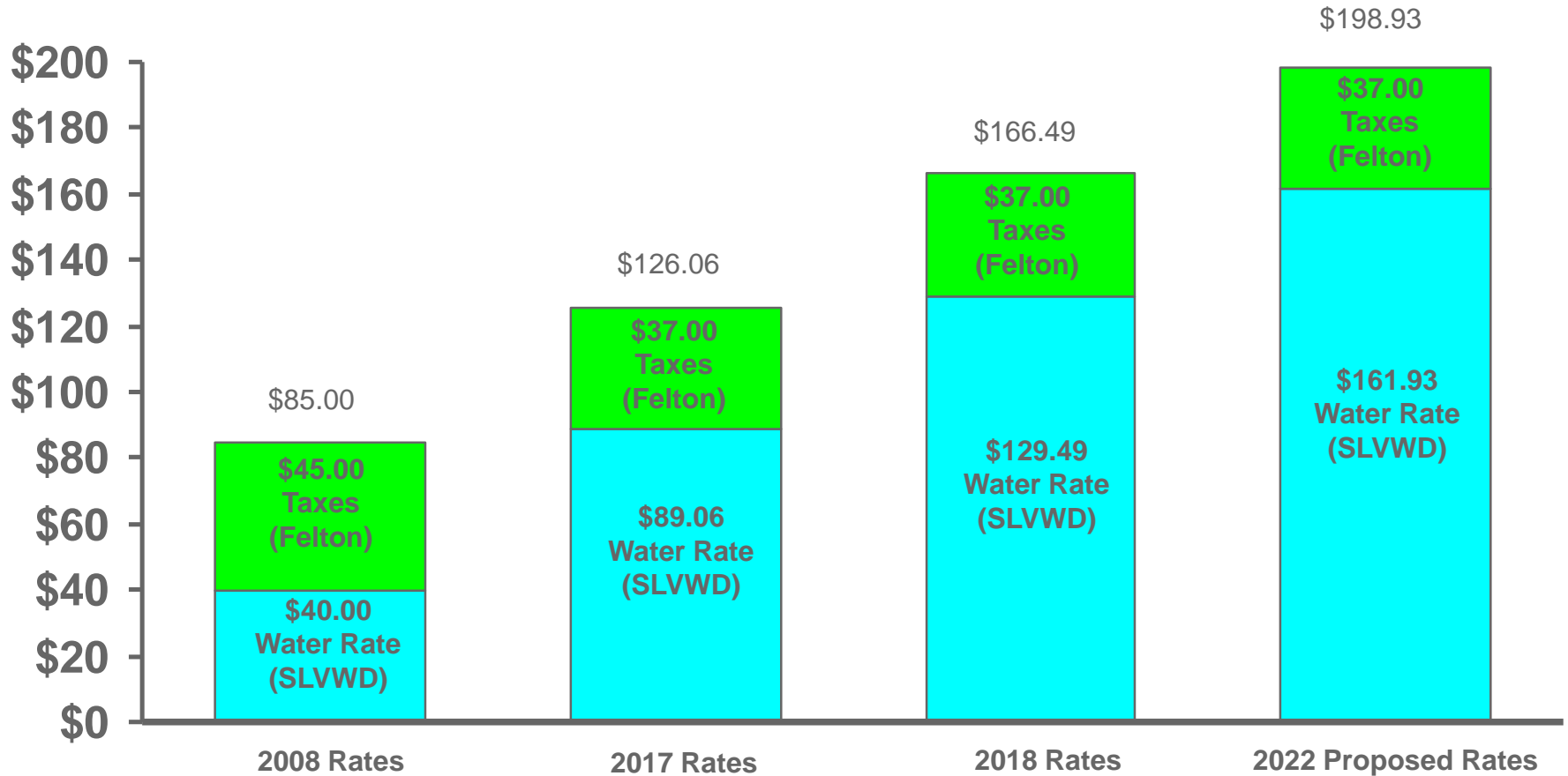
# Government Valuation vs. Actual Price



\*\*denotes American Water system

\*\*\*entire system subsequently sold as stock sale for 198 Million  
**City of Peoria, IL decided not to buy the water system.**

## Felton Water Rates



10 CCF Usage

## **A Walk Down “Feasibility Lane” is Fraught With Costly & Unintended Consequences**

- Feasibility study costs
- District’s attorney’s fees
- District’s expert fees
- California-American’s attorney’s fees
- California-American’s expert fees
- Opportunity costs – a huge diversion of time, focus, and resources

**Just Because You Can,  
Doesn’t Mean You Should**