

SERVICE DATE Sep 26, 2023

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of the City of Watertown, as a Water Public Utility, for Authority to Implement a Financial Assistance Program for Customer-Side Lead Service Line Replacement, in the City of Watertown, Dodge and Jefferson Counties, Wisconsin

6230-LS-100

Public Service Commission of Wisconsin
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FINAL DECISION

This is the Final Decision by the Public Service Commission (Commission) on the application of Watertown Water Department (applicant), pursuant to Wis. Stat. § 196.372, for authority to implement a financial assistance program for property owners in replacing customer-side water service lines containing lead. The application is GRANTED, subject to the conditions in this Final Decision.

Introduction

On May 30, 2023, the applicant, as the water public utility of the City of Watertown, filed an application seeking Commission approval to implement a financial assistance program for replacing lead service lines (LSLs) owned by its retail customers. ([PSC REF#: 469267](#).) On July 3, 2023, the Commission determined the application to be complete in accordance with Wis. Stat. § 196.372(3)(am). ([PSC REF#: 471936](#).) The Commission issued a Notice of Investigation on July 13, 2023. ([PSC REF#: 472733](#).)

No party requested intervention in this docket, and no hearing was required or held.

Wisconsin Stat. § 196.372(3)(d) provides that:

[i]f a hearing is not held on an application, the commission shall take final action on the application within 90 days after the application is determined to be complete. The chairperson of the commission may extend the time period for an additional 90 days for good cause. If the commission fails to take final action within the initial 90-day period, or the extended 90-day time period, the commission is considered to have granted its approval.

In this docket, the initial 90-day deadline for Commission action is October 1, 2023.

Prior to this application, the Commission considered the approval of financial assistance programs. In its April 13, 2023 Final Decision for Edgerton Municipal Water Utility's LSL financial assistance program, the Commission delegated the authority for LSL financial assistance programs to the Administrator of the Division of Water Utility Regulation and Analysis. ([PSC REF#: 464176.](#))

Findings of Fact

1. The applicant is a public utility as defined under Wis. Stat. § 196.01(5)(a) that provides water service to approximately 3,083 retail customers in Dodge County and 5,648 customers in Jefferson County.
2. The applicant's proposed program consists of grants of no more than one-half the customer's replacement cost up to a maximum of \$5,000. Any remaining amounts due could be financed with the applicant over a 10-year period with an annual interest rate of 2.5 percent. The estimated total program cost is \$7,000,000 to complete the approximately 1,000 remaining LSL replacements over the next three years. The applicant's current annual revenue from total water sales is \$5,649,819, and the estimated impact of the financial assistance program, including administrative costs, financed over 20 years, is an increase in rates of approximately 3.2 percent.
3. The financial assistance program requires Commission review and approval under Wis. Stat. § 196.372(2)(c).
5. The applicant has been granted the authority in a municipal ordinance to provide utility customers financial assistance for the purpose of replacing service lines containing lead, pursuant to Wis. Stat. § 196.372(2)(a).

6. The proposed program implements measures to require that either the utility-owned main or service line connected to the customer-owned service line does not contain lead or is replaced at the time the customer-owned service line is replaced, pursuant to Wis. Stat. § 196.372(2)(b).

7. The proposed program limits grants provided as financial assistance to a property owner to no more than one-half of the total costs to the owner of replacing the customer-side water service line containing lead, meeting the requirement in Wis. Stat. § 196.372(3)(e)2.a.

9. The percentage of the cost of replacing the customer-side water service line containing lead that the applicant intends to provide in financial assistance will be the same for each owner in a class of customers, meeting the requirement in Wis. Stat. § 196.372(3)(e)3.a.

10. There are no potential environmental effects associated with the strictly financial action at issue in this docket. Therefore, the docket does not require the preparation of an environmental impact statement under Wis. Stat. § 1.11 nor an environmental assessment.

11. If implemented as conditioned by this Final Decision, the actions described in the application are not unjust, unreasonable, or unfairly discriminatory, as required by Wis. Stat. § 196.372(3)(e)1.

Conclusions of Law

1. The Commission has authority under Wis. Stat. §§ 1.11, 44.40, 196.02, 196.025, 196.395, and 196.372 to issue a Final Decision authorizing the applicant to implement a program to provide financial assistance to owners of property in replacing customer-side service lines containing lead.

2. The Commission has authority under Wis. Stat. § 15.02(4) to delegate to the Administrator of the Division of Water Utility Regulation and Analysis those functions vested by law as enumerated above. It has delegated the authority to the Administrator of the Division of Water Utility Regulation and Analysis to issue a Final Decision for the proposed financial assistance program.

3. The applicant's program to provide financial assistance to property owners replacing customer-side water service lines containing lead meets the requirements in Wis. Stat. §196.372(3).

4. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stat. §§ 196.02 and 196.395.

5. The application contemplates a utility financial assistance program, a financial action that does not have the potential to significantly affect the quality of the human environment under Wis. Admin. Code § PSC 4.10 or Wis. Stat. § 1.11(2)(c), and requires neither an environmental impact statement nor an environmental assessment.

Opinion

Project Description and Purpose

The applicant is a Wisconsin water public utility that provides drinking water to approximately 3,083 retail customers in Dodge County and 5,648 customers in Jefferson County. In 2022, the applicant's revenue from water sales totaled \$5,442,790. The applicant filed an application with the Commission on May 30, 2023 seeking authority to implement a financial assistance program for customer-side LSL replacement.

The applicant intends to treat galvanized service lines as lead-containing galvanized service lines in the distribution system. Based on its application, the applicant estimates that there are approximately 1,000 customer-side LSLs currently in the distribution system. The estimate represents approximately 13.56 percent of the system's service lines.

With its application to the Commission, the applicant requests to offer financial assistance to customers so it can remove and replace all LSLs connected to its distribution system over the next three years.

Financial Assistance Description

At least 45 days prior to commencement of a utility project, the applicant will provide written notice to the owner of the property where it intends to replace LSLs. Customers will be required to respond to the 45-day notice within 30 days. All property owners will be eligible for the financial assistance program.

The applicant's proposed financial assistance program will allow for all customers to be eligible over the life of the program.

The applicant proposes to offer eligible customers a grant to pay for up to 50 percent of the cost to replace the customer-side LSL, to a maximum grant amount of \$5,000. The applicant will provide additional financial assistance available in the form of a loan for the remaining replacement costs. The applicant will finance the loan over a 10-year period with an annual interest rate of 2.5 percent.

The applicant indicates that the City of Watertown (City) intends to use non-compliance penalties in conjunction with requirements of the program under the ordinance. The applicant will seek customer compliance through service disconnection or other procedures provided for

under its tariffs. Once the applicant makes a determination to disconnect service, it will use a process similar to what it currently uses for billing arrears. The applicant prepared a draft tariff for disconnection and submitted it in conjunction with its financial assistance program application. The proposed program requires property owners to replace LSLs connected to a utility-side LSL at the same time the applicant replaces the utility-side line.

Estimated Program Costs

The applicant completed replacement of approximately 550 customer-side LSLs in 2021 and 2022 utilizing the Wisconsin Department of Natural Resources (DNR) Safe Drinking Water Loan Program (SDWLP) funds. Using this experience, the applicant estimated an approximate cost of \$7,000,000 to replace all the remaining 1,000 LSLs in the distribution system.

\$3,500,000, or 50 percent, would be provided as grants. The applicant budgeted \$1,205,000 annually, broken down by \$1,166,667 for grant program expenses, \$5,000 for loan costs, and \$33,333 for administrative costs annually. The Commission finds it reasonable to require the applicant to track its expenses in the following manner:

1. Grant program costs should be estimated in a subaccount in Account 664 (Customer Installation Expense): The applicant estimates incurring a total of \$1,166,667 in 2023.
2. Loan program costs (costs to administer loans) should be estimated in different subaccount in Account 664: The applicant estimates \$5,000 of loan costs in 2023.
3. Loan program costs (loans provided to customers) should be estimated in a subaccount in Account 124 (Other Investments): The applicant estimates \$1,166,667 of loan costs in 2023.

4. Administrative costs should be estimated in a subaccount different from that in Item 1 in Account 664 (Customer Installation): The applicant will record administrative costs in this account. The applicant anticipates incurring an estimated \$33,333 in administrative costs.

The Commission also finds it reasonable to require the applicant to submit an application for a conventional water rate case no later than three years from the effective date of the Final Decision in this docket.

Rate Recovery – Method for Funding

In its application, the applicant proposed to cash fund the program prior to receiving bond proceeds from the SDWLP. The applicant is not requesting any deferral of costs. The applicant's revenue from water sales was \$5,442,790 according to the 2022 PSC Annual Report. The estimated annual costs of this program, \$1,205,000, would equal 22.14 percent of its current revenue from water sales.

The SDWLP has not yet provided details on the applicant's financial award. If the SDWLP awards principal forgiveness funds and requires particular conditions, for example, funds set aside for disadvantaged communities, the applicant must still ensure that it is tracking funds, in particular, any utility funds used to award customers for replacing their LSLs, and that the program still complies with this Final Decision and the requirements under Wis. Stat.

§ 196.372.

Environmental Review

The Commission is reviewing a utility financial assistance program only, not the water service line replacements themselves. Because there are no potential environmental effects

associated with the strictly financial action at issue in this docket, the docket does not require the preparation of an environmental impact statement under Wis. Stat. § 1.11 or an environmental assessment.

Sufficiency of the Application Under Wis. Stat. § 196.372(3)(a)

A water public utility that seeks Commission approval for this type of program must provide the Commission with “an application that includes a description of the proposed financial assistance” and “a description of the method for funding the financial assistance” that the applicant will provide, as well as “a description of the customers served by the water public utility that would be eligible for financial assistance,” along with any other relevant information that the Commission requests. Wis. Stat. § 196.372(3)(a).

In addition to the information that is expressly required by the statute, the Commission’s Application Checklist requested that the applicant provide more details about its program. ([PSC REF#: 469268](#), [PSC REF#: 469269](#).) The Application Checklist expressly requested information about how the program would comply with Wis. Stat. § 196.372(2)(a) and (b). The applicant filed a copy of the municipal ordinance that permits the applicant to provide financial assistance to private property owners and requires that customers replace their service lines containing lead pursuant to Wis. Stat. § 196.372(2)(a). The ordinance permits the applicant to provide the financial assistance and requires owners to replace their LSLs. The application materials demonstrate that the applicant has a plan to ensure that either the utility-owned main or service line connected to the customer-owned service line does not contain lead or is replaced at the same time the customer-owned service line is replaced. The applicant also provided information responding to the other items on the Application Checklist.

The Commission finds that the applicant submitted information responsive to each category required by statute and each item on the Application Checklist and therefore finds that the program meets requirements set forth in Wis. Stat. § 196.372(2)(a).

Compliance with Wis. Stat. §§ 196.372(3)(e)2. and 196.372(3)(e)3.

Wisconsin Stat. § 196.372(3)(e)2. provides that the Commission may not approve an application unless all of the following conditions are met:

1. Grants provided as financial assistance to a property owner may not exceed 50 percent of the cost to replace the customer-side water service line. Wis. Stat. § 196.372(3)(e)2.a.
2. Any loan provided to a property owner may not be forgiven by the utility or the municipality. Wis. Stat. § 196.372(3)(e)2.b.

Additionally, Wis. Stat. § 196.372(3)(e)3. provides that the Commission may not approve an application unless the application satisfies one of the following conditions:

1. If the utility intends to provide financial assistance as a percentage of the cost of replacing the property owner's portion of the service line, the percentage must be the same for each owner in a class of customers. Wis. Stat. § 196.372(3)(e)3.a.
2. If the utility intends to provide financial assistance as a specified dollar amount, the amount must be the same for each owner in a class of customers. Wis. Stat. § 196.372(3)(e)3.b.

The applicant certifies that grants will not exceed one-half of the owner's replacement costs, and loans provided by the applicant and the City for the remainder will not be forgiven.

The grant and loan portions of the financial assistance in sum will cover 100 percent of the cost

of replacing the property owner's portion of the service line. Thus, the Commission concludes that the application complies with Wis. Stat. §§ 196.372(3)(e)2.a. and b.

Compliance with Wis. Stat. § 196.372(3)(e)1.

In order to approve an application, the Commission must find that the overall program is not unjust, unreasonable, or unfairly discriminatory. Wis. Stat. § 196.372(3)(e)1. The Commission has no indication that the applicant's proposed financial assistance program is unjust, unreasonable, or potentially unduly discriminatory; therefore, the Commission finds that the actions described in the applicant's application are not unjust, unreasonable, or unduly discriminatory.

Tariffs

The applicant included a draft proposed tariff in its application, which is presented in Appendix A. The Commission concludes that the tariffs as proposed would provide for reasonable implementation of the applicant's financial assistance program.

Conclusion

Watertown Municipal Water Utility, as a water public utility, is authorized to implement a financial assistance program for replacement of customer-side water service lines containing lead proposed in its May 30, 2023 application, subject to the conditions in this Final Decision.

Order

1. The applicant's application for authority to provide financial assistance to replace customer-side water service lines containing lead is approved, with conditions.
2. The tariff provisions authorized in this docket shall take effect no sooner than one day after the day the applicant has: (a) filed these rates and tariff provisions with the

Commission; and (b) made them available to the public at locations where customer payments are accepted, on the applicant's website, or in a form and place that is otherwise readily accessible to the public, pursuant to Wis. Stat. § 196.19 and Wis. Admin. Code

§ PSC 185.33(1)(f). If a copy of the new tariff provisions is not made available to the public when they are filed with the Commission, the new tariff provisions shall take effect one day after the day they are made available to the public.

3. The applicant shall receive approval from the Commission prior to making any significant changes to its financial assistance program.

4. The applicant shall record its program expenses and revenues in subaccounts created in the following manner:

- a. Grant Program costs: Account 664 subaccount
- b. Loan Program costs (costs to administer loans): Account 664 subaccount
- c. Loan Program costs (loans provided to customers): Account 124
- d. Administrative Costs: Account 664 subaccount

5. The applicant shall submit an application for a conventional water rate case no later than three years from the effective date of this Final Decision.

6. The applicant shall file with the Commission, as part of its annual report to the Commission, a report of the number of service lines replaced, as well as program expenses and revenues in a manner that is consistent with the prescribed subaccounts described in Order Point No. 4.

7. The Final Decision takes effect on the date of service.

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8. Jurisdiction is retained.

Dated at Madison, Wisconsin, this 26th day of September, 2023.

For the Commission:

A handwritten signature in black ink, appearing to read "A. P. Galvin", with a long horizontal flourish extending to the right.

Andrew P. Galvin
Administrator
Division of Water Utility Regulation and Analysis

APG:RJP:alf:krl DL:01954670

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
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**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.¹ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

¹ See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

Watertown Water Department

Water Rate File Changes

New

LSL-1

LSL-2

Public Service Commission of Wisconsin

Watertown Water Department

Financial Assistance for Replacement of Customer-Side Service Lines Containing Lead (LSLs)

The Utility has established a financial assistance program to assist property owners with the costs associated with the removal and replacement of customer-side service lines containing lead (LSLs) connected to the Utility's water distribution system. For purposes of the financial assistance program, the customer-side service line is from the curb stop to the property's water meter.

A. Utility Inspection and Inventory

In order to implement the financial assistance program, the Utility may request that the property owner permit an authorized Utility employee or representative reasonable access to the property in order to inspect and determine or confirm the customer-side service line's construction material.

B. LSL Replacement in Conjunction with Utility-Side Replacement

In the event the Utility has planned replacement of the Utility-side line or water main containing lead, the LSL connected to the Utility's distribution system must be replaced at the same time.

At least 45 days prior to the scheduled date of the Utility-side replacement, the Utility shall notify the property owner in writing of the scheduled date of the replacement. The property owner must schedule replacement of the LSL within 30 days of receiving the 45 day notice from the Utility. The LSL replacement must coincide with the Utility's replacement of the Utility's line or water main containing lead.

C. LSL Replacement Without Utility-Side Replacement

If the Utility identifies that a customer-side service line contains lead, the Utility shall notify the property owner that the customer-side service line contains lead and must be replaced. Unless the Utility grants an extension, the property owner must replace the LSL within 36 months of notification.

Public Service Commission of Wisconsin**Watertown Water Department****Financial Assistance for Replacement of Customer-Side Service Lines Containing Lead (LSLs)****D. LSL Replacement – Financial Assistance Program**

The Utility shall make financial assistance available to all property owners who have an LSL. The Utility will make financial assistance available to such property owners in the form of a grant by covering up to 50% of the costs associated with the replacement of a LSL if done in conjunction with an identified Utility project. The maximum grant amount shall not exceed \$5,000. The Utility may make additional financial assistance available in the form of a loan for up to another 50% of the replacement costs. In order to receive financial assistance, a property owner must submit Utility Program Specific Requirements.

E. Loan Agreement and Process

Upon request, the Utility will provide financial assistance to the property owner in the form of a loan for up to 50% of the LSL replacement costs. Loans are only available upon completion of the LSL replacement and meeting all other Utility program specific requirements. The property owner may make a loan request by submitting an application for assistance to the Utility within 30 days of the completion of the LSL replacement.

F. Loan Agreement Term and Repayment

The term of the loan will include a 10 year repayment period with an interest charge of 2.5 percent. The loan will be repaid in equal installments invoiced to the property owner, annually. Loan repayments that are past due may be placed on the property tax roll as provided in Section 66.0809, Wisconsin Statutes. The Utility shall not forgive the amount loaned to a property owner.

Public Service Commission of Wisconsin**Watertown Water Department****Financial Assistance for Replacement of Customer-Side Service Lines Containing Lead (LSLs) and Disconnection**

The Utility may disconnect water service in accordance with Schedule X-1 and Wis. Admin. Code § PSC 185.37 when one of the following occurs:

A. Failure to Provide Access to Inventory Customer-Side Service Line

If the property owner does not provide the requested reasonable access for inspections to determine or confirm the customer-side service line's construction material as described in Schedule LSL-1, the Utility may proceed to disconnect water service following the notification and disconnection procedures set forth in the Utility's tariffs and Wis. Admin. Code § PSC 185.37. Reconnection charges shall apply.

B. Failure to Replace LSL When Required as Part of a Utility Replacement

If the property owner does not replace the LSL, or any necessary and reasonable agreement with the customer is not in place as described in Schedule LSL-1, the Utility may refuse to reconnect the property owner's water service or may proceed to disconnect water service following the notification and disconnection procedures set forth in Schedule X-1 and Wis. Admin. Code § PSC 185.37. Reconnection charges shall apply.

C. Failure to Replace LSL When Not Required as Part of a Utility Replacement

If the property owner does not replace the LSL by the date specified by the Utility pursuant to Schedule LSL-1, the Utility may proceed to disconnect water service following the notification and disconnection procedures set forth in Schedule X-1 and Wis. Admin. Code § PSC 185.37. Reconnection charges shall apply.