



May 15, 2023

Honorable Sherri Golden
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350

Re: In the Matter of Middlesex Water Company for Approval of Proposed Cost Recovery of Lead Service Line Replacement Plan

BPU Docket No. WR2305_____

Dear Secretary Golden:

Enclosed herewith for filing please find Middlesex Water Company's ("Middlesex" or "the Company", or "Petitioner") Petition for Board approval of Middlesex's proposed cost recovery of its Lead Service Line Replacement Plan, which is being filed pursuant to N.J.S.A. 48:2-13, 48:2-16, 48:2-21, and 58:12A-45, N.J.A.C. 14:1-5.12 and such other statutes and regulations and Board Orders that may be deemed by the Board to be applicable for approval of the relief sought in the enclosed Petition.

Copies of this Petition and Exhibits have this day been sent by electronic mail to the Department of Law and Public Safety and the Director of the Division of Rate Counsel and, by first class mail, upon the clerks of the various municipalities comprising the Petitioner's service territory and the clerks of the Boards of County Commissioners in each affected county.

Middlesex respectfully requests that the Board retain jurisdiction of this matter and render a decision thereon.

Kindly confirm receipt of this filing by electronic mail to jkooper@middlesexwater.com.

Very truly yours,

A handwritten signature in blue ink that reads "Jay L. Kooper".

Jay L. Kooper

Vice President, General Counsel & Secretary

Enclosures

cc: Service List B

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

	:	CERTIFICATE OF SERVICE
In the Matter of MIDDLESEX	:	
WATER COMPANY for Approval	:	
of Proposed Cost Recovery of	:	
Lead Service Line Replacement Plan	:	

Jay L. Kooper, an Attorney at Law of New Jersey, hereby certifies the following:

On May 15, 2023 I caused to be served by first-class mail, postage prepaid, a copy of the within Petition to each party on the attached Service List B, and copies thereof to the Department of Law and Public Safety and to the Director, Division of Rate Counsel by electronic mail.



Jay L. Kooper

Dated: May 15, 2023

IN THE MATTER OF THE PETITION OF MIDDLESEX WATER COMPANY
FOR APPROVAL OF PROPOSED COST RECOVERY OF LEAD SERVICE LINE REPLACEMENT PLAN
BPU DOCKET NO.: WR2305 _____

~ Service List B ~

Clerk, Borough of Carteret
Municipal Building
61 Cooke Avenue
Carteret, NJ 07008

Clerk, Township of Clark
Municipal Building
430 Westfield Avenue
Clark, NJ 07066

Clerk, Borough of Metuchen
Borough Hall
Main and Middlesex Avenues
Metuchen, NJ 08840

Clerk, Township of Edison
Municipal Building
100 Municipal Boulevard
Edison, NJ 08817

Clerk, Township of Woodbridge
1 Main Street
Woodbridge, NJ 07095

Clerk, Middlesex County
Board of County Commissioners
1 J.F. Kennedy Square
New Brunswick, NJ 08903

Clerk, Borough of Metuchen
Borough Hall
Main and Middlesex Avenues
Metuchen, NJ 08840

Clerk, City of South Amboy
140 North Broadway
South Amboy, NJ 08879-1647

Clerk, Borough of South Plainfield
Borough Hall
2840 Plainfield Avenue
South Plainfield, NJ 07080

Clerk, Union
Board of County Commissioners
Administration Building - 2nd Floor
Elizabeth, NJ 07207

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

In the Matter of MIDDLESEX WATER : PETITION
COMPANY for Approval of Proposed Cost :
Recovery of Lead Service Line Replacement : Docket No. WR2305____
Plan :

TO: THE HONORABLE COMMISSIONERS OF THE BOARD OF
PUBLIC UTILITIES:

Petitioner, Middlesex Water Company (hereinafter referred to as “Petitioner,” “Middlesex” or the “Company”), respectfully submits this Petition pursuant to N.J.S.A. 48:2-13, 48:2-16, 48:2-21, and 58:12A-45, N.J.A.C. 14:1-5.12 and such other statutes, regulations and Board Orders that may be deemed by the Board to be applicable, for approval of its plan for proposed cost recovery of replacement of lead service lines.

1. Middlesex is a corporation organized and existing under the laws of the State of New Jersey, with its principal offices located at 485C Route One South, Suite 400, Iselin, New Jersey 08830. Communications relating to this Petition should be sent to Jay L. Kooper, Esq., Vice President, General Counsel & Secretary, Middlesex Water Company, 485C Route One South, Suite 400, Iselin, New Jersey 08830 and Stephen B. Genzer, Esq., Saul Ewing Arnstein & Lehr LLP, One Riverfront Plaza, 1037 Raymond Boulevard, Suite 1520, Newark, New Jersey 07102, and copies thereof should also be sent to A. Bruce O’Connor, Senior Vice President, Treasurer and Chief Financial Officer, Middlesex Water Company, 485C Route One South, Suite 400, Iselin, New Jersey 08830.

2. Middlesex is a duly organized and existing public utility of the State of New Jersey subject to the jurisdiction of the Board of Public Utilities (the “Board” or “BPU”). Middlesex provides water services to approximately 61,000 retail customers, primarily in eastern Middlesex County, New Jersey. The Middlesex System’s retail customers are located in an area of approximately 55 square miles in Woodbridge Township, the City of South Amboy, the Boroughs of Metuchen and Carteret, portions of the Township of Edison and the Borough of South Plainfield in Middlesex County, and a portion of the Township of Clark in Union County. Retail customers include a mix of residential customers, large industrial concerns and commercial and industrial light facilities. These customers are located in generally well-developed areas of central New Jersey.

3. Middlesex provides water under wholesale contracts to the City of Rahway, Townships of Edison and Marlboro, the Borough of Highland Park and the Old Bridge Municipal Utilities Authority. Middlesex treats, stores and distributes water for residential, commercial, industrial and fire protection purposes. Middlesex also provides water treatment and pumping services to the Township of East Brunswick under contract. The contract customers of the Middlesex System comprise an area of approximately 110 square miles with a population of over 200,000. Contract sales to Edison, Old Bridge, Marlboro and Rahway are supplemental to the existing water systems of these customers.

4. Middlesex provides water service to approximately 300 customers in Cumberland County, New Jersey. This system is referred to as Bayview, and is not physically interconnected with the Middlesex System. The Company owns and operates water treatment, supply, transmission and distribution systems for these purposes. The Company also owns subsidiaries that provide utility and utility-related services in Southampton Township in Burlington County, and portions of Delaware and Pennsylvania.

5. This Petition is being filed on a “stand-alone” basis, that is, for the Middlesex Water Company service area only including Bayview, and not the service areas of Middlesex’s subsidiaries.

6. By this Petition, in accordance with the New Jersey Lead Service Line Replacement Law, P.L. 2021, Chapter 183 (codified at N.J.S.A. 58:12A-40, et seq.) (“LSLR Law”), the Company submits the foregoing plan for the replacement of property-owner side or customer-owned lead service lines pursuant to the LSLR Law (“LSLR Plan” or the “Plan”). The Company acknowledges that pursuant to the LSLR Law, the Company must submit its LSLR Plan “at its next general rate proceeding.” Concurrently with this filing, the Company is today filing a petition for approval of an increase in its rates for water service and other tariff changes with the Board as its own separate Board-docketed matter. Middlesex respectfully requests that the Board retain jurisdiction of this matter and render a decision hereon.

7. In order for Middlesex to recoup the costs of lead service line replacements from its customers, the LSLR Law requires Middlesex to include the following six elements in its proposal for cost recoupment:

- The estimated total cost to replace both sides of LSLs;
- The availability of grants or low interest loans;
- Middlesex’s proposed rate treatment of replacement costs;
- A description of how the replacement of LSLs will be accomplished in conjunction with other replacement projects;
- The estimated savings that will be achieved; and
- The means and methods by which Middlesex will communicate with customers and document the customer’s consent or lack of consent to the replacement of an LSL.

8. Middlesex engaged CDM Smith to work with the Company to develop a comprehensive Lead Service Line Replacement Program Plan (“LSLR Program Plan”). The LSLR Program Plan establishes how the Company will identify, manage, and remove all lead

and galvanized service lines, which the State classifies as LSLs. The plan also sets forth the process of identification and replacement of LSLs by July 2031, as is required by the LSLR Law. This includes a description of how the replacements will be prioritized, the plan for the customer side replacement, legal items and approvals needed, logistics and procedures, costs and funding strategy, and the communication strategy and public outreach.

9. In support of this Petition, annexed hereto and made a part hereof as if fully set forth herein Middlesex submits the following exhibits:

Exhibit A - LSLR Program Plan developed by CDM Smith.

Exhibit B – Testimony of Michele L. Tilley.

I. ESTIMATED COSTS TO REPLACE TOTAL LEAD SERVICE LINE

10. After reviewing Middlesex’s updated inventory, CDM Smith estimated that as of July 22, 2022, there exists approximately 166 utility-owned LSLs, 7,379 customer-owned LSLs, and 487 full lead service lines that need to be replaced. These estimates assume 20 percent of the service lines that are of unknown material are either lead or galvanized.

11. For its evaluation, CDM Smith applied the following year 1 unit costs, which only include construction costs¹.

- \$7,000 each per customer-side LSL only;
- \$6,000 each per utility-side LSL only;
- \$10,000 per full LSLR (based on project experience for economies of scale when a full LSLR is completed at one specific address); and
- \$300 per test pit

Exhibit A, Section 3.6, Table 3-3 provides a breakdown of full, customer-side only and utility-side only LSLRs to be replaced annually over a 9-year period. In order to meet the required pace of a 9-year program, approximately 900 services must be replaced on average

¹ Year 1 unit costs, subsequent years include a 3% annual increase.

annually, assuming 20 percent of unknown service lines are LSLs. The 9-year program's total anticipated construction cost to replace utility-owned and customer-owned LSLs and conduct 400 test pits annually to evaluate service lines of unknown composition ranges from \$49.7 million to \$82.9 million² over the next 9 years.

12. The average cost to replace utility- or customer-owned LSLs could increase or decrease as work continues. Factors impacting cost could include, but are not limited to: (1) whether work is completed as a part of a main replacement program, in a targeted area or as a one-off replacement; (2) local ordinances, codes and requirements; (3) changes in laws, standards, and best practices; (4) local competitive market prices; (5) differences in construction methods and equipment in different areas; (6) property site conditions; (7) scope of work and building conditions for work, if any, performed through building foundation walls and within buildings; (8) any factors impacting material and labor costs such as inflation, strikes, and events affecting the supply chain; and (9) improvements in technology.

II. AVAILABILITY OF GRANTS OR LOW INTEREST LOANS

13. Middlesex monitors the availability of grants and low interest loans for which it may be eligible and seeks such funding to reduce the total cost of LSL replacements. In the State of New Jersey, the main source of low interest loans for water utilities is the New Jersey Infrastructure Bank ("I-Bank"). The I-Bank is an independent state financing authority responsible for providing and administering low interest rate loans to qualified municipalities, counties, regional authorities, and water purveyors in New Jersey for the purpose of financing water quality infrastructure projects that enhance ground and surface water resources, ensure the safety of drinking water supplies, protect the public health and make possible responsible and sustainable economic development.

² Excludes program management/inspection costs of 12% and internal management costs of 3%.

14. The Company has submitted an application seeking funding in the amount of approximately \$9.8 million from the I-Bank for LSL replacements, which is expected to cover costs for the first year of replacements. The federal Bipartisan Infrastructure Law mandates that Drinking Water State Revolving Fund Lead Service Line Replacement Funding must be provided as grants or forgivable loans to disadvantaged communities. Middlesex's service territory does not qualify as a disadvantaged community and Middlesex's proposed LSL Plan therefore does not qualify for principal forgiveness under the federal Bipartisan Infrastructure Law.

15. While loans are available through the I-Bank, the state-wide mandate to replace all LSLs in New Jersey under the LSLR Law sets a deadline of 2031, which does not guarantee that the Middlesex LSL application would rank high enough on the I-Bank project priority list to qualify for loans from the I-Bank for LSL replacement. In addition, the Company is unaware of the availability of state grants that it may be eligible to receive.

16. The Company will continue to evaluate the viability of additional opportunities for which it may be or may become eligible to receive to aid in lowering the total cost of implementing the LSLR Plan.

III. PROPOSAL FOR OF LEAD SERVICE LINE COST RECOVERY

17. The cost of replacing Company-owned LSLs is recorded in account 345 – Services, in accordance with the Board's Uniform System of Accounts ("USoA"). Company-side service lines are eligible for capital recovery either through base rates or under the Distribution System Improvement Charge ("DSIC"), depending on the timing of the investment.

18. The Company also seeks to recover the costs associated with inventorying LSLs, developing the LSLR Program Plan and managing the plan in the traditional method, and not through the surcharge described below.

19. The LSLR Law authorizes the Company to recover the proportionate share of project costs for the replacement of customer-owned LSLs as an operation and maintenance expense, plus the Company's last authorized embedded cost of debt, through a semi-annual surcharge.

20. In addition to traditional construction costs associated with the replacement of customer-owned LSLs, the "proportionate share of project costs for the replacement of the property-owner side of a lead service line" may include costs incurred specific only to addressing customer-side LSLs. These costs may include customer notifications required by the LSLR Law, as well as other communications costs associated with notifying or informing customers regarding, among other things (i) the LSLR Plan, (ii) inventory efforts or status; or (iii) their service line material ("LSL Communications").

21. The Company's proposal to recover costs associated with the replacement of customer-owned LSLs is broken down into three parts: (1) costs incurred through the first surcharge filing; (2) the filing of the first surcharge filing; and (3) ongoing semi-annual surcharge filings; and will be in place until all identified LSLs are replaced and the cost of such replacement is fully recovered.

22. For costs incurred since the Company's last base rate case (BPU Docket No. WR21050813) ("2021 Rate Case") through the last month ending prior to the Company's first surcharge filing, the Company proposes to record and defer on its books in USoA Account 186 – Miscellaneous Deferred Debits a regulatory asset that represents the total project costs associated with replacing customer-owned LSLs since October 1, 2021,

including a monthly carrying charge on such regulatory asset balance equal to the embedded cost of debt from the 2021 Rate Case.

23. Following the Board's approval of this Plan, the Company proposes to make its first semi-annual filing with the Board setting forth the total amount of project costs incurred in connection with the replacement of customer-owned LSLs from October 1, 2021 through the most recent month end period prior to the date of the surcharge filing. The total amount to be recovered through the expense surcharge will include carrying costs based on the Company's embedded cost of debt authorized in the 2021 Rate Case, which is 2.68%.

24. After the initial surcharge filing, the Company proposes to record and defer the expense incurred in between semi-annual filings on its books in USoA Account 186 – Miscellaneous Deferred Debits as a regulatory asset to capture the project costs associated with replacing customer-owned LSLs, including the Company's embedded cost of debt authorized in the then most recent base rate case. The full amount deferred during each six (6) month period will then be included in each semi-annual surcharge filing.

25. The Company proposes that each surcharge be applied to General Metered Service ("GMS") customers as a fixed charge on customers' bills and collected over a six (6) month period. The Company further proposes that the surcharge be implemented thirty (30) days after the surcharge filing is made with the Board.

26. In this filing, the Company is seeking approval of a cost recovery mechanism in accordance with the LSLR Law. There will be no immediate impact to customer rates as a result of this filing.

27. The Company is seeking authority to defer the project costs associated with replacing customer-owned LSLs and record them in USoA Account 186 – Miscellaneous Deferred Debits, until cost recovery can be achieved through future surcharge filings.

28. The average monthly bill impact for the proposed rate treatment for the project costs associated with replacing customer-owned LSLs will vary depending on the actual amount of expense incurred during the replacement period. Exhibit B sets forth the estimated low and high range average monthly bill impact per year.

29. As noted above, additional project costs may include LSL Communications. The Company does not currently have an estimate of the full scope of the need for, or cost of, such communications as they may vary from time to time.

30. In its surcharge filings, the Company will only seek cost recovery of the actual project and customer communication costs incurred in connection with the replacement of customer-owned LSLs.

IV. PROPOSAL FOR REPLACEMENT OF LEAD SERVICE LINES IN CONJUNCTION WITH OTHER REPLACEMENT PROJECTS

31. The Company's plan is to identify, remove and replace LSLs as efficiently as possible with existing resources, giving priority to LSL Replacements performed simultaneously along a street and, where possible, integrating with other ongoing construction activities planned by the municipalities.

32. Several other factors will be considered for the prioritization of LSL Replacements, which include:

1. Addresses where new water mains are being installed, including the Company's annual RENEW Program and upcoming capital improvement projects
2. Areas with the highest density of suspected LSLs
3. Addresses in Overburdened Communities ("OBCs")
4. Communities with a high density of children
5. Addresses with high lead levels based on future sampling program results (15 parts per billion ("ppb") or above)
6. Municipal paving projects

33. The Company's prioritization plan for LSL Replacements is more fully described in Exhibit A, Section 3.2.

V. ESTIMATED SAVINGS TO BE ACHIEVED BY THE COMPANY PERFORMING THE LEAD SERVICE LINE REPLACEMENTS ON BEHALF OF CUSTOMERS

34. There are numerous factors that could impact the potential costs associated with a utility-managed versus a homeowner-managed LSL replacement. As such, it is difficult to quantify savings associated with the utility-managed approach. Nonetheless, concrete benefits of implementing a utility managed LSLR program do exist.

35. Generally, a larger company such as Middlesex will realize costs advantages over individual customers resulting from economies of scale and work efficiencies. For example, the Company already has the equipment and expertise needed to complete the lead service line replacements in contrast to customers who would each need to rent equipment or hiring individual contractors. Savings would also be achieved due to efficiencies associated with performing systematic, ongoing service line work enabling Middlesex to develop more efficient practices, techniques, and use of equipment; efficiencies that would not exist if an individual customer were replacing their own service line.

VI. CUSTOMER COMMUNICATION DOCUMENTATION OF CONSENT

36. Public outreach is critical to inform consumers about health effects of lead, sources of lead and ways to reduce lead exposure to lead from drinking water. Middlesex's comprehensive communication strategy developed for the LSL Replacement program includes the following:

- General public outreach
- Public outreach for inventory development
- Public outreach for replacements
- Outreach to towns

37. The Company's communication strategy and public outreach plan for LSL Replacements are more fully described in Exhibit A, Section 3.7.

VII. RELIEF REQUESTED

WHEREFORE, Middlesex Water Company respectfully requests that the Board review and expeditiously issue a Decision and Order:

1. Approving Middlesex's proposed cost recovery for its LSLR Plan, as set forth in the LSLR Plan and as contemplated by the LSLR Law;
2. Approving Middlesex's request for authority to record and defer on its books a regulatory asset that represents the project costs associated with replacing customer-owned LSLs from October 1, 2021 until the Company has replaced all customer-owned LSLs and recovered the cost of doing so, and to calculate a monthly carrying charge on the balance in that regulatory asset account equal to the embedded cost of debt from the Company's then applicable base rate case; and
3. Authorizing Middlesex to establish a cost recovery mechanism as set forth herein and the LSLR Plan; and
4. Such other relief that the Board deems just, reasonable and necessary.

Respectfully Submitted,

MIDDLESEX WATER COMPANY

By: 
Jay L. Kooper
Vice President, General Counsel & Secretary

Dated: May 15, 2023
Iselin, New Jersey