



**ERIE COUNTY WATER AUTHORITY**  
**INTEROFFICE MEMORANDUM**

To: Jerome D. Schad, Chair  
Peggy A. LaGree, Vice Chair  
Michele M. Ianello, Treasurer

Cc: Terrence D. McCracken, Secretary to the Authority  
Joyce A. Tomaka, Chief Financial Officer  
Charles E. Eaton, Chief Operating Officer  
Leonard F. Kowalski, Executive Engineer  
Lavonya C. Lester, Director of Administration  
Sabrina A. Figler, Director of Water Quality  
Jessica R. Brown, Comptroller

From: Mark S. Carney, General Counsel

Date: December 6, 2023

Subject: Recommended Changes to ECWA's Enabling Tariff to Replace  
Lead Service Lines and Finance Costs of said Replacement.

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The Board requested that the Legal Department review of the Authority's existing Tariff provisions to determine what, if any, modifications would be recommended to effectively comply with the anticipated EPA requirement to replace any and all lead service lines within our system.

The Legal Department reviewed EPA and New York State guidelines regarding the anticipated requirement of replacing lead service lines within our system. Additionally, our review included the websites for the Monroe County Water Authority ("MCWA"), Onondaga County Water Authority ("OCWA"), and Suffolk County Water Authority ("SCWA") to determine what steps these similar water authorities have taken regarding the federal lead and copper rule revisions. The Legal Department also reviewed existing policies and procedures from New York City Water, Albany Water, and other cities outside of New York State to analyze various methods to resolve this issue.

MCWA, OCWA and SCWA have posted methods to identify lead service lines but have not posted any policies describing how lead service lines within their systems would be replaced or their anticipated funding sources for such replacements.

In contrast, Albany Water and New York City Water, as well as other major municipalities in the Northeast, have proposed the contribution of sums of money towards the customer's cost to replace lead service lines. Albany Water allows for a \$1,500 payment/credit if half the line is replaced or a \$2,000 credit/payment if the entire line is replaced. New York City and Chicago have opted to cover the entire cost of lead service line replacements and require that customers receiving these funds fill out forms and require estimate from municipal approved contractors.

**Date:** 12/6/2023

**Re:** Tariff Revisions For Lead  
Service Line Replacement

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The Board of Commissioners has the option to allow for a credit to a customer to be used for the cost of lead service line replacements. The Board would need to create a metric to determine which customers would receive the credit based on criteria that could include a customer's income, assets and similar. If a partial credit is used to finance lead service line replacements for customers, the relevant provisions of the Tariff are § 2.31 (F) and (H). Tariff § 2.31 states that the Authority may discontinue water service:

F. For refusal of reasonable access to the property for the purpose of reading repairing, replacing, testing or removing meters or backflow preventers or observing water pipes and other fixtures.

...

H. For failure to properly operate and maintain all customer owned facilities including but not limited to service pipes, meter pits, tile settings, backflow preventer enclosures and backflow prevention devices.

In order to accommodate lead service line replacements, paragraph F should include refusal to replace lead service lines containing lead, as determined by the Authority, as a reason to discontinue water service. Additionally, paragraph H should specify that failure to replace a lead service line as directed by the Authority is a reason to discontinue service.

It is therefore the Legal Department's recommendation that the Board of Commissioners modify the Tariff to allow for the discontinuance of service for customers who refuse to replace a lead service line. The addition of this language will permit the Board to make a future decision regarding the Authority's contribution toward lead service line replacements across the service area for those customers who apply and potentially include a program where the Authority could fully finance lead service line replacements when the customer meets certain income and economic conditions to be determined by the Board, in consultation with Authority personnel. The Legal Department has attached a red-lined version of the Tariff showing these proposed changes and requests that the Board consider approving the changes at its December 14, 2023 meeting.

MSC:mes

ERIE COUNTY WATER AUTHORITY  
AUTHORIZATION FORM  
For Approval/Execution of Documents  
(check which apply)

**Contract:** \_\_\_\_\_ **Project No.:** \_\_\_\_\_  
**Project Description:** Tariff Revisions effective January 1, 2024

**Item Description:**






<input type="checkbox"/> Agreement	<input type="checkbox"/> Professional Service Contract	<input type="checkbox"/> Amendment	<input type="checkbox"/> Change Order
<input type="checkbox"/> BCD	<input type="checkbox"/> NYSDOT Agreement	<input type="checkbox"/> Contract Documents	<input type="checkbox"/> Addendum
<input type="checkbox"/> Recommendation for Award of Contract	<input type="checkbox"/> Recommendation to Reject Bids		
<input type="checkbox"/> Request for Proposals			
<input checked="" type="checkbox"/> Other <u>Tariff Revisions</u>			

**Action Requested:**

<input type="checkbox"/> Board Authorization to Execute	<input type="checkbox"/> Legal Approval
<input type="checkbox"/> Board Authorization to Award	<input type="checkbox"/> Execution by the Chairman
<input type="checkbox"/> Board Authorization to Advertise for Bids	<input type="checkbox"/> Execution by the Secretary to the Authority
<input type="checkbox"/> Board Authorization to Solicit Request for Proposals	
<input checked="" type="checkbox"/> Other <u>Authorization to revise Tariff</u>	

**Approvals Needed:**

**APPROVED AS TO CONTENT:**

<input type="checkbox"/> Other (if Applicable)	_____	Date: _____
<input checked="" type="checkbox"/> Chief Operating Officer		Date: <u>12/06/2023</u>
<input checked="" type="checkbox"/> Executive Engineer		Date: <u>12/06/2023</u>
<input type="checkbox"/> Director of Administration	_____	Date: _____
<input type="checkbox"/> Risk Manager	_____	Date: _____
<input checked="" type="checkbox"/> Chief Financial Officer		Date: <u>12/06/2023</u>
<input checked="" type="checkbox"/> Legal		Date: <u>12/06/23</u>
<b>APPROVED FOR BOARD RESOLUTION:</b>		
<input checked="" type="checkbox"/> Secretary to the Authority		Date: <u>12-6-23</u>

**Remarks:** \_\_\_\_\_

**Resolution Date:** \_\_\_\_\_ **Item No:** \_\_\_\_\_