

A PSC Perspective Using Customer Rates for Private-side LSL Removal



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Housekeeping

- This webinar is being recorded.
- Slides are available under the "handouts" tab.
- Please do not use the chat to ask questions. Instead, please use the "Ask a Question" function.
- Any questions we don't get to today will be used to develop our FAQs.
- We will be building website resources including:
 - Webinar recording
 - FAQs
 - Handouts



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Agenda

- Introduction
- Brief History of PSC Decisions
- Using Customer Rates
- Accounting Treatment
- FAQs
- Utility Financial Assistance Programs (*depending on time*)
- Wrap Up

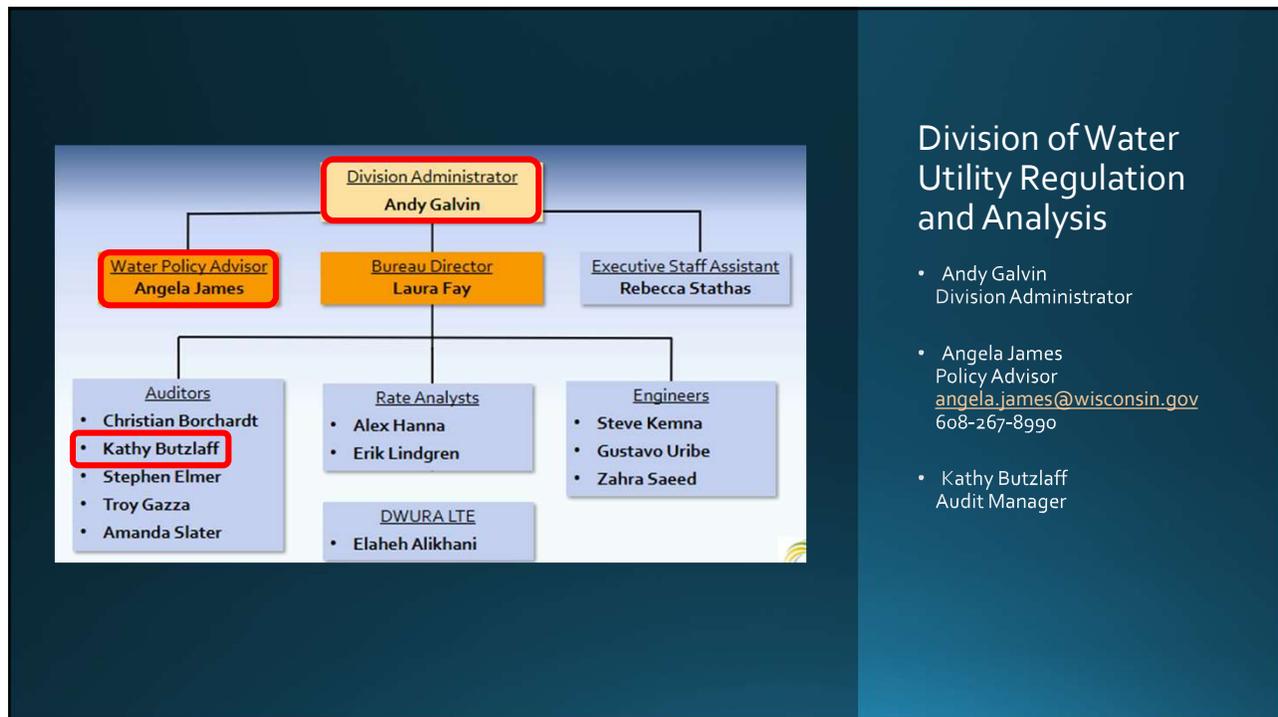


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Introduction



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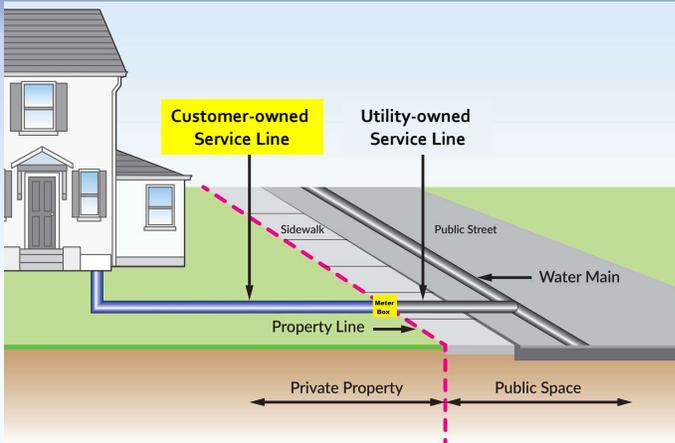
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Setting the Table

- The uniqueness of the Commission
- Decisions are based on the specific facts and circumstances presented in the cases before it. The Commission's position evolves with the facts and circumstances presented to it.
- The information provided in this report is based on past Commission decisions.
- We are presenting this for informational purposes. We always advise you to speak to your legal counsel about your specific facts and filings with the Commission.

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A note on terminology:



LSLs include:

- private-side LSLs, customer-side LSLs - refer to the portion of a lead service line owned by a customer, and for which the customer has financial responsibility to replace.
- Utility-side LSL – refers to portion of LSL owned by utility
- LSLs include galvanized lines



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A note on terminology:

- **Regulated Customer Revenues** - Customer rates, utility rates, customer money, ratepayer funds, ratepayer revenue, water revenue, above the line revenue
 - money received by a utility that is included in its revenue requirement
 - used to pay for utility operations
 - based on utility's revenue requirement in a rate case
 - included in PSC Annual Report Schedule W-01 (W-02 - W-04)
- **Non-regulated Revenues** - other utility revenues, municipal revenue, below the line revenue
 - Revenues from other sources that are not in the revenue requirement
 - included in PSC Annual Report Schedule F-01
 - Caution!



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Scope of this Discussion

We are discussing:

- the removal of private-side LSLs
- when regulated customer revenues can be used

1. What can customer rates pay for?
2. When does a utility need PSC approval?

• We are not discussing:

- Utility-side LSL projects.
- Eligible costs under the Safe Drinking Water Loan Program.
- Unique conditions in existing utility tariffs or approvals.

Please reach out to DNR for information on the SDWLP, and to PSC to discuss applicability of prior Commission approvals for your utility.



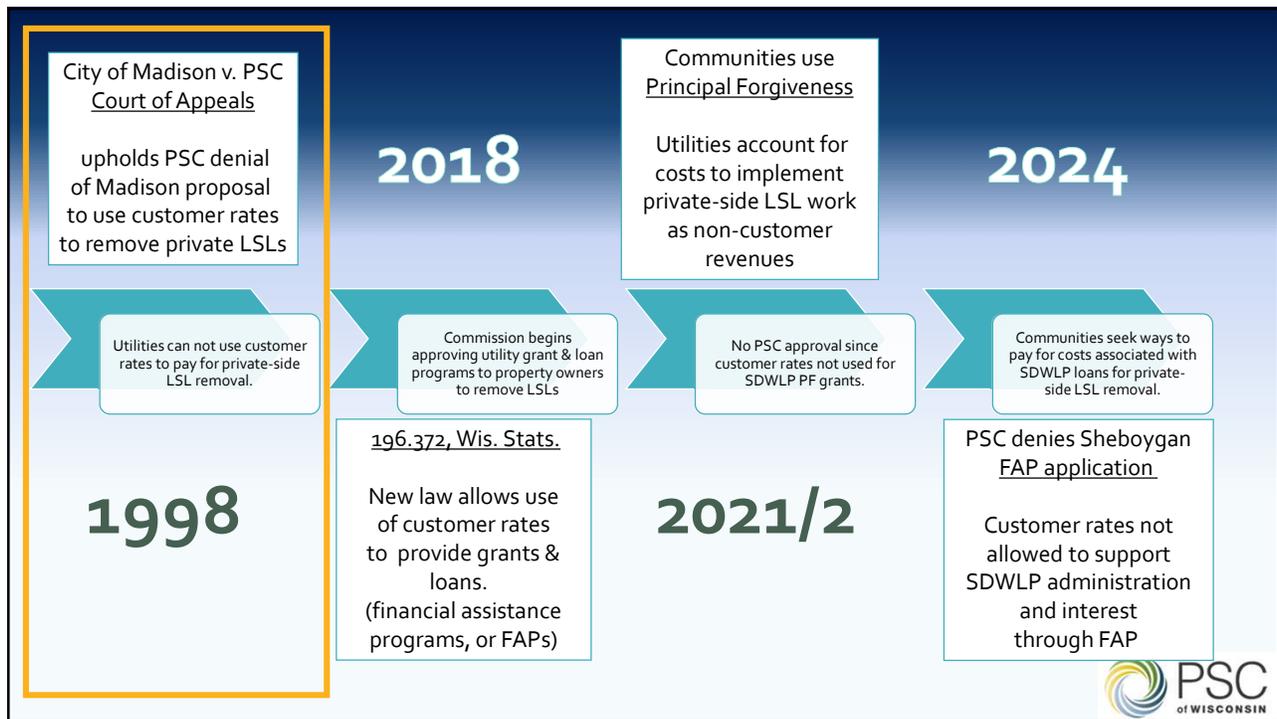
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Private-side LSL Removal

A brief history of PSC Decisions



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The first decision in Wisconsin:
Madison Water Utility (1998)

City of Madison v. PSC Court of Appeals

upholds PSC denial of Madison proposal to use customer rates to remove private LSLs

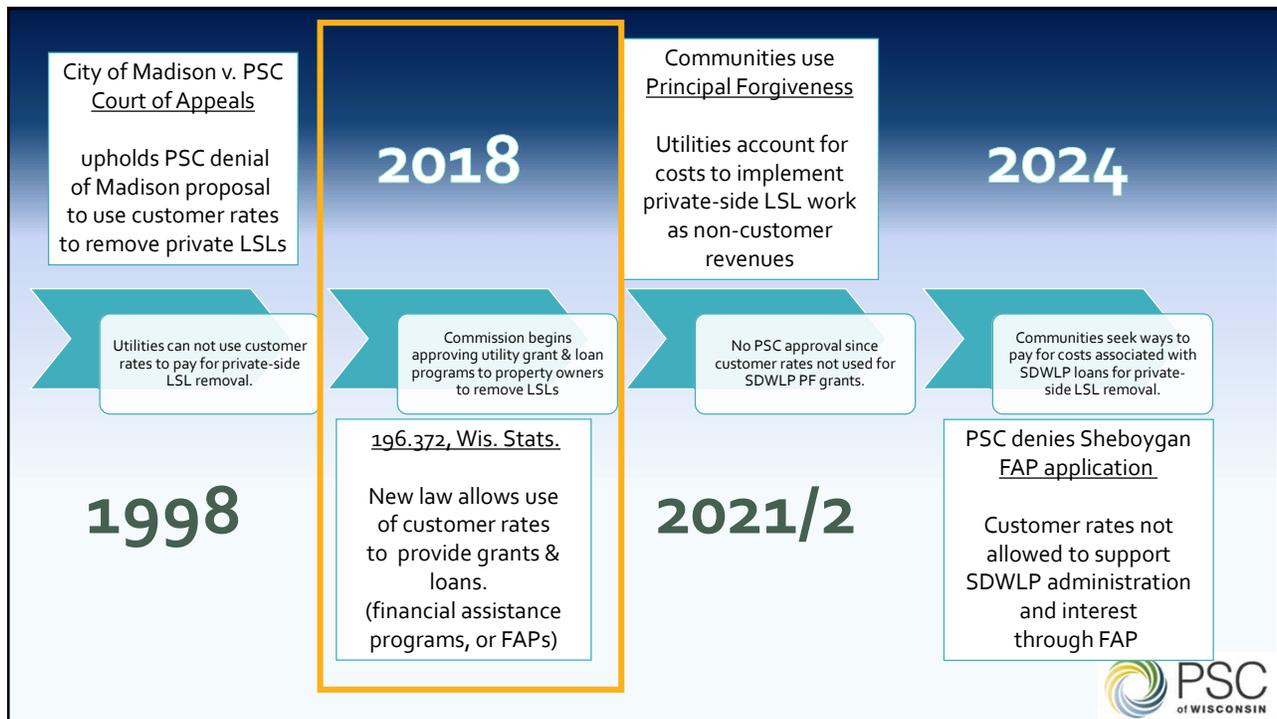
Utilities can not use customer rates to pay for private-side LSL removal.

1998

"[T]he Commission believes that it would be unreasonable and unjustly discriminatory if public program dollars generated through [regulated customer revenues] were to be authorized as a subsidy to furnish a direct benefit to an exclusive group of private property owners."

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2018

Legislature Creates a Narrow Exemption for Use of Regulated Customer Revenues for Private LSL Removal

- Wis. Stats.196.372 created to allow the PSC to approve the use of customer rates for private-side LSL replacements, as long as they meet the requirements of s. 196.372.
- Utility Financial Assistance Programs (FAPs) are currently the only instance where customer rates may be used for private-side LSL replacement programs.
- Limited to the provision of "financial assistance" to property owners in the form of grants and loans.

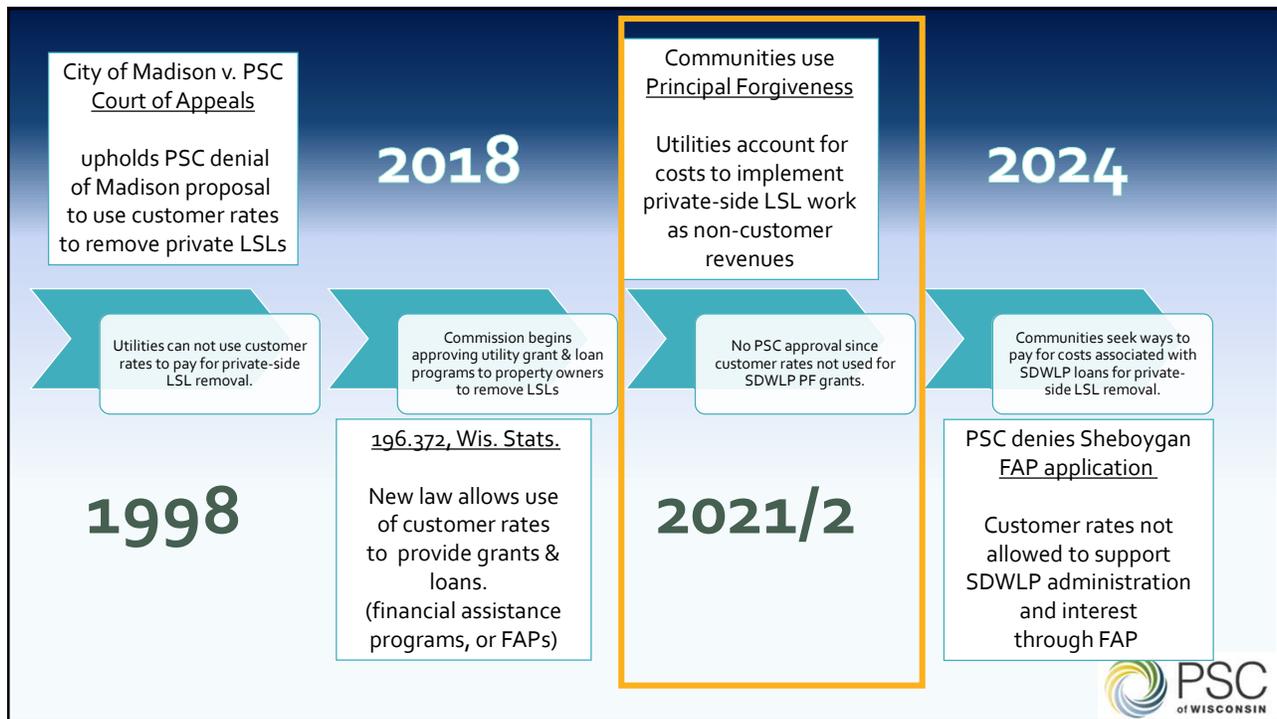
Commission begins approving utility grant & loan programs to property owners to remove LSLs

196.372, Wis. Stats.

New law allows use of customer rates to provide grants & loans. (financial assistance programs, or FAPs)

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Communities use Principal Forgiveness

Utilities account for costs to implement private-side LSL work as non-customer revenues

No PSC approval since customer rates not used for SDWLP PF grants.

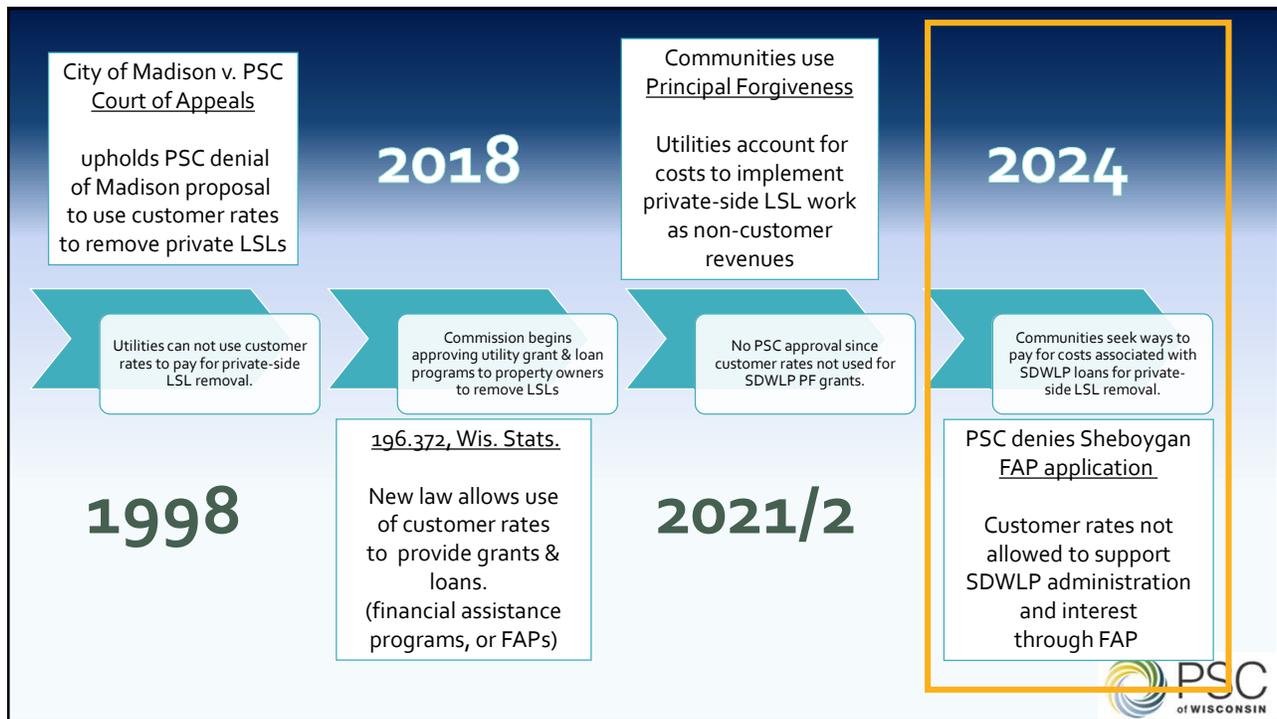
2021/2

Federal Covid Relief Money Creates Opportunity for Private-Side Removal

- The Bipartisan Infrastructure Law (BIL) provided once-in-a-generation funding to remove both utility and private-side LSL infrastructure.
- Since this was not funded by regulated customer revenues, PSC approval was not necessary, and the statutory limits imposed by FAP statute did not apply.
- Utilities were told to account for utility expenditures related to implementing these programs (if any) in "below the line" accounts.

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2024

PSC denies Sheboygan FAP application

Customer rates not allowed to support SDWLP administration and interest through FAP

Communities seek ways to pay for costs associated with SDWLP loans for private-side LSL removal.

The Sheboygan FAP application confirms narrowness of the FAP exception (5370-LS-101)

- Commission denied application for a FAP that proposed using regulated customer revenues to pay for:
 - utility staff to administer private-side loans paid for by SDWLP funds; and
 - the interest on the SDWLP for private-side LSL replacement costs.
- The expenditure of regulated customer revenues under a FAP is limited to providing financial assistance (grants & loans) to customers. This does not include SDWLP interest payments or the costs associated with utility staff administering SDWLP funds.

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Summary of Prior Decisions:

- Generally, the "[T]he Commission believes that it would be unreasonable and unjustly discriminatory if public program dollars generated through utility rates were to be authorized as a subsidy to furnish a direct benefit to an exclusive group of private property owners." (Madison)
- The exemption to this is the use of regulated customer revenues to pay for "financial assistance" to private property owners under a Commission-approved utility financial assistance program (FAP). (s. 196.372, Stats.)
 - "Financial Assistance" is limited to "grants, loans, or a combination thereof." (Sheboygan)

1. What can customer rates pay for?
2. When does a utility need PSC approval?



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Private-side LSL projects

Using Customer Rates



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The Two Questions We Get the Most:

What can customer rates pay for?

- Regulated customer revenues **can not** be used to fund private-side removal or related costs, unless...
- The only exception is that customer rates can fund grants & loans in an approved utility financial assistance program (FAP).

When does a utility need PSC Approval?

- You need PSC approval to set up a utility financial assistance program (FAP) using customer rates to provide grants and loans to customers for private-side LSL removal.

1. What can customer rates pay for?
2. When does a utility need PSC approval?



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Bonus Questions!

Are there other Utility Revenue Sources?

- Perhaps

How to Account for these expenses

- There are specific requirements for accounting for the revenues and expenses

- And there are cautions to be aware of!

1. What can customer rates pay for?
2. When does a utility need PSC approval?
3. Are there any other revenue sources?
4. How to account for expenses



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What is "approval"?

The PSC takes actions in dockets to approve applications it receives. For private-side LSL removals, there have generally been two types of applications:

1. LS Dockets - Request for approval of an LSL financial assistance program (FAP) to provide grants and loans to customers to pay for private LSL removals. These approvals are required BEFORE those dollars have been expended.
1. WR Dockets - Request to recover in rates the costs associated with a FAP. This is done as part of a rate case, based on estimates for the Test Year.



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DWURA/OGC Considerations

Last Rate Case WR Docket

- Revenue Requirement (Schedule W-01)



PSC-approved FAP LS Docket

- Use of Regulated Customer Revenues approved, but rates have not yet been adjusted



Next Rate Case WR Docket

- Updated Revenue Requirement (Schedule W-01)

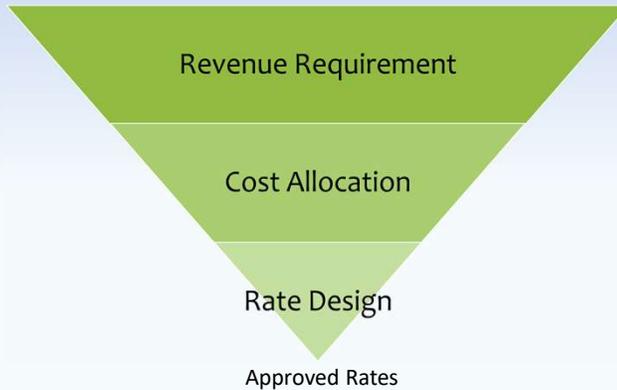


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Remember the ratemaking process

Customer rates based on Revenue Requirement

- all costs that utilities recover in rates



Revenue Requirement

- O & M Costs
- Taxes
- Depreciation
- Rate of Return
- Annual Report Schedule W-01
- Forward-looking Test Year



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What's not in the revenue requirement?

Examples:

- Lobbying, Advertising, water bottles!
- Billing services for another utility

These items do not have the restrictions as regulated customer revenues and could be used for non-utility efforts to remove customer-side LSLs

- But there are cautions...

Revenue Requirement

- Items are not included, thus not in rates
- Annual Report Schedule F-01



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Private-side LSL Removals

Accounting Considerations



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Regulated Customer Revenues are Based on the Revenue Requirement

- The Revenue Requirement:
 - Is determined by the Commission
 - Is set in a conventional rate case
 - Is based on reasonable operating and capital costs needed to operate the utility
 - Is based on a sample forward-looking test year
- See page W-1 of the PSC Annual Reports
- Sometimes called "Above the Line"

Year Ended: December 31, 2024
Utility No. 2350 - Green Bay Water Utility
Page 1 of Schedule W-01

Description	This Year	Last Year
(A)	(B)	(C)
Operating Revenues - Sales of Water		
Sales of Water (460-467)	24,547,861	23,611,061
Total Sales of Water	24,547,861	23,611,061
Other Operating Revenues		
Fuelcell Discounts (470)	138,895	130,126
Rents from Water Property (472)	125,926	168,008
Interdepartmental Rents (473)	0	0
Other Water Revenues (474)	0	233,774
Total Other Operating Revenues	264,821	431,908
Total Operating Revenues	24,812,682	24,042,969
Operation and Maintenance Expenses		
Source of Supply Expense (500-617)	219,762	50,575
Pumping Expenses (500-633)	1,594,645	1,744,204
Water Treatment Expenses (540-652)	1,849,106	2,283,644
Transmission and Distribution Expenses (560-678)	3,687,506	3,517,770
Customer Accounts Expenses (901-906)	487,965	466,889
Sales Expenses (910)	0	0
Administrative and General Expenses (920-932)	3,009,953	2,970,267
Total Operation and Maintenance Expenses	11,259,337	11,634,279
Other Operating Expenses		
Depreciation Expenses (933)	5,418,744	5,110,363



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Year Ended	Other Operating Revenues (Water)		Schedule W-04	Schedule W-01
	<ul style="list-style-type: none"> Report revenues relating to each account and fully describe each item using other than the account title. Report each item (when individually or when like items are combined) greater than \$10,000 (class AB), \$5,000 (class C) and \$2,000 (class D and privates) and all other lesser amounts grouped as Miscellaneous. For a combined utility which also provides sewer service that is based upon water readings, report the return on net investment in meters charged to sewer department in Other Water Revenues (474). 			
	Operating	Description (a)	Amount (b)	
	Sales of	Public Fire Protection Service (463)		1 08,746 2
	Total Sale	Amount billed (usually per rate schedule F-1 or Fd-1)	118,711	2 08,746 3
	Other Op	Wholesale fire protection billed		3 4
	Forfeite	Amount billed for fighting fires outside utility's service areas (usually per rate schedule F-2 or BW-1)		4 86,079 5
	Rents f	Total Public Fire Protection Service (463)	118,711	5 22,987 6
	Interde	Forfeited Discounts (470)		6 0 7
	Other V	Customer late payment charges	293,720	7 03,058 8
	Total Oth	Total Forfeited Discounts (470)	293,720	8 12,124 9
	Total Ope	Rents from Water Property (472)		9 20,870 10
	Operatio	Rent of tower for cellular antennas	303,923	10 11
	Source	Total Rents from Water Property (472)	303,923	11 12
	Pumpin	Interdepartmental Rents (473)		12 60,709 13
	Water	None		13 0 14
	Transm	Total Interdepartmental Rents (473)	0	14 90,379 15
	Custom	Other Water Revenues (474)		15 35,693 16
	Sales E	Return on net investment in meters charged to sewer department	261,401 *	16 37,312 17
	Admini	Damage meters	3,573	17 91,558 18
	Total Ope	Final Read Charges	35,913 *	18 0 19
	Other Op	Hydrant Flow Test	2,880	19 70,156 20
	Deprec	Misc Water Revenue	3,865	20 85,807 21
		Non-Standard Meter Charge	13,739 *	21 20 22
		Return Payment Charge	3,576	22 51,363 * 23
		Street Sprinkling Sales	6,226	23 69,891 24
		Water for Construction	51,363 *	24 25
		Total Other Water Revenues (474)	382,536	25



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Year Ended: December 31, 2024		Utility No. 2350 - Green Bay Water Utility				Page 1 of Schedule F-03
Income from Merchandising, Jobbing & Contract Work (Accts. 415-416)						
Particulars (a)	Water (b)	Electric (c)	Gas (d)	Sewer (e)	Total (f)	
Revenues						1
Revenues (account 415)	845,252				845,252	2
Cost and Expenses of Merchandising, Jobbing and Contract Work (416)						3
Cost of merchandise sold					0	4
Payroll	169,422				169,422	5
Materials	104,538				104,538	6
Taxes					0	7
Other (List by major classes)						8
FRINGE BENEFITS	26,423				26,423	9
Contracted services	545,393				545,393	10
Total costs and expenses	845,776	0	0	0	845,776	11
Net Income (or loss)	(524)	0	0	0	(524)	12

- See PSC Annual Report Schedule F-01
- Sometimes called "Below the Line"

6,912,540

1,528,779

8,742,199



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Accounting Treatment for Private-side LSL Removal when using SDWLP funds:

SDWLP Funding - The PSC does not consider SDWLP funding as utility revenues from regulated customer revenues

Accounting Treatment:

- **Option 1:** all activity recorded on municipal books (no utility pass through)
- **Option 2:**
 - Record all money received from SDWLP as loans/PF on municipal books.
 - Record all loans/grants provided to customers on municipal books.
 - Record all related administrative costs on utility books:
 - Account 416 as an expense.
 - Activity in Accounts 415-416 is not part of customer rates.



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Accounting Treatment for Private-side LSL Removal when USING customer rates:

Utility FAP - supported with dollars from regulated customer revenues

Accounting Treatment:

- Loans: business liability in Accounts 221-224
- Grants: expense in Account 664
- Administrative Costs: expense in Account 664 (both utility labor costs and supplies)



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What about Cash on Hand?

Utilities have discretion to use cash in any way they want...
within reason

- Remember: is reviewed by the Commission



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Proceed with caution...

- Utilizing cash on hand or other utility revenues to pay for private-side LSL-related activities could create challenges in future rate cases.
- These expenditures may be considered unreasonable if they negatively impact the utility, for example:
 - Utility's financial health falls behind key financial performance metrics;
 - Utility opts to fund private-side LSL, instead of approved projects (e.g., delays capital improvements); or
 - Other indicators of financial strain on the utility and customers.
- The Commission will evaluate this based on the facts and circumstances presented in the rate case.



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Frequently Asked Questions



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Safe Drinking Water Loan Program

Please work with DNR on your questions regarding the Safe Drinking Water Loan Program.



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Revenue Pledges for SDWLP?

General Obligation Pledge or Alternative Revenue Pledge

- Since no customer rates are used to pay for the SDWLP loan, no PSC approval necessary

Water Revenue Pledge

- Since SDWLP money is being used to benefit a small subset of private property owners, use of customer rates is unlikely to be approved because the use of customer rates to furnish private property owners with a benefit is unreasonable and unjustly discriminatory.



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What if SDWLP pays only part of the cost?

- Determine what the SDWLP will pay for, and what will need to be paid from an alternative source.
 - Consider segregating these costs as you plan to implement your project.
- If choosing to pay for those costs through the water utility, remember customer rates:
 - May be used to pay for "grants and loans" made to customers to fund private-side LSL removal under an approved utility financial assistance plan;
 - May not be used otherwise to pay for private-side LSL removal;
 - May be used to pay for the administrative costs associated with an approved utility financial assistance plan (FAP);
 - May not be used to pay for the administrative costs associated with private-side removal funded by sources outside of an approved utility financial assistance plan.



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"Other Project Costs" not covered by SDWLP

- We've been asked about a variety of other "soft costs" or "project costs" like engineering, inspection, street reconstruction.
- Same issue applies: customer rates likely can not be used to pay for private-side expenses funded outside of an approved utility FAP.
- If used, account for costs "below the line"



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Can Utility staff administer private-side LSL removal?

Grants & Loans paid for by SDWLP, or other non-utility funds

- Can not use Regulated Customer Revenues to pay for utility staff to administer a private-side LSL program paid for by the SDWLP.
- Utility staff are not prohibited from doing so, but cannot use customer rates
- Municipality can reimburse the utility for the staff time spent on administering the program.
- Account for "below the line"

Grants & Loans paid for by FAP

- Can use customer rates to pay for utility staff to administer a private-side LSL program paid for by a FAP.
- All requirements of the Commission-approved FAP must be met.
- Account for "above the line"



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Municipal payments to utilities

- Municipalities can reimburse utilities for work done to administer private-side LSLs.
 - This could include payments from general obligation funds, municipal special charges, etc.
- Non-utility revenue may pay for soft costs.
- Account for these payments "below the line"
 - For larger utilities, you would account for this as Kathy explained earlier
 - For smaller utilities with limited staffing, utility may have charged (allocated) to the municipal directly



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Using different funding sources:

	1	2	3	4	5
Total Project Cost per Customer	\$ 10,000				
Utility FAP					
Grant (max 50%)	-	5,000	-	-	5,000
Loan:	-	5,000	-	-	-
Other Funding Sources					
SDWLP PF Grant:	-	-	10,000	7,500	5,000
SDWLP Loan:	-	-	-	2,500	-



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What are the consequence for using regulated customer revenues inappropriately?

- Utility's financial health falls behind key financial performance metrics
- Utility opts to fund private-side LSL, instead of other critical projects (e.g., delays routine maintenance or capital improvements)
- Other indicators of financial strain on the utility and customers.



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Other Questions?

- Please use the "ask a question" function to send questions to the presenters.
- Please do not use the chat function.



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FAQs and Application process

Utility Financial Assistance Programs



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What are Utility Financial Assistance Programs?

- Wis. Stat. 196.372
- Allows the utility to create a grant and/or loan program, using customer rates, to provide financial assistance to private property owners for the purposes of removing lead service lines.
- Since 2018, 13 utilities have received approval for a utility financial assistance program in an LS (lead service) docket.



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Applying for a Utility Financial Assistance Program

- LS Dockets are processed like CW dockets (Construction Dockets) and impose statutory deadlines on PSC review.
- [Online Application](#)
- Delegation to Division Administrator (Edgerton, docket 1760-LS-100)
- Approval required BEFORE engaging in the program.

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Statutory Requirements for a utility FAP

- Grants must be limited to no more than 50% the total replacement cost to the owner
- Loans may cover the remainder
- The percentage or dollar amount provided must be equal for each owner in a class of customers
- Utility enacts an ordinance that allows utility to provide financial assistance and requires property owners to replace customer-side water service lines containing lead
- Connecting mains can't contain lead, or will be replaced at the same time



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Essential to Split the funding sources

- In our application, the "Utility Dollars" column refers to Customer Revenues as shown on Schedule W-01
- "Municipal Dollars" = non-customer rates (Schedule F-01 or other non-utility sources)
- Our priority is to update and streamline the application soon!

1. Provide the estimated dollar amounts for each funding source for the overall customer-side replacement program, noting that there may be a mixture of funding sources.

	Municipal Dollars	Utility Dollars
SDWLP Principal Forgiveness		
SDWLP Loan		
Other Loans obtained by the Municipality		
Other Loans obtained by the Utility		
Utility Cash On Hand		
Utility Rates		
Other		
Totals		

Note: Commission approval is only required for a financial assistance program that uses funding generated from utility rates (Column 3 above).



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WRAP UP



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What has the Commission said about the use of customer rates for private-side LSL removals?

The Commission has held:

1. Regulated customer revenues can be used to fund "financial assistance" (grants/loans) given by the utility to customers as part of an approved utility financial assistance program (FAP) under 196.372.
2. Regulated customer revenues cannot be used for any other activities to support or administer private-side LSL removal activities
 - It is unreasonable and discriminatory to use customer rates to fund activities that benefit only a few members of a customer class. (Madison)
 - FAPs cannot be used to fund "soft costs" associated with private-side LSL removal funded by a SDWLP grant or loan. (Sheboygan)



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When does the PSC review utility activity to remove private-side LSLs?

1. In an LS docket:
 - When a utility wishes to create a financial assistance program (FAP) under 196.372 to provide financial assistance (grants & loans) funded by customer rates.
2. In a WR docket:
 - During rate cases, the PSC will review expenditures related to private-side LSL removal to determine if they impact a utility's revenue requirement.
 - Non-regulated revenues/expenses should be noted "below the line" on Schedule F-01 of the annual report, unless part of an approved utility financial assistance program (FAP).



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What does the future hold?

- Private-side LSL removal continues to evolve
- Federal rules and requirements continue to evolve
- Remember that each case before the Commission is independently evaluated, and no single case is precedential



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Next Steps at the PSC



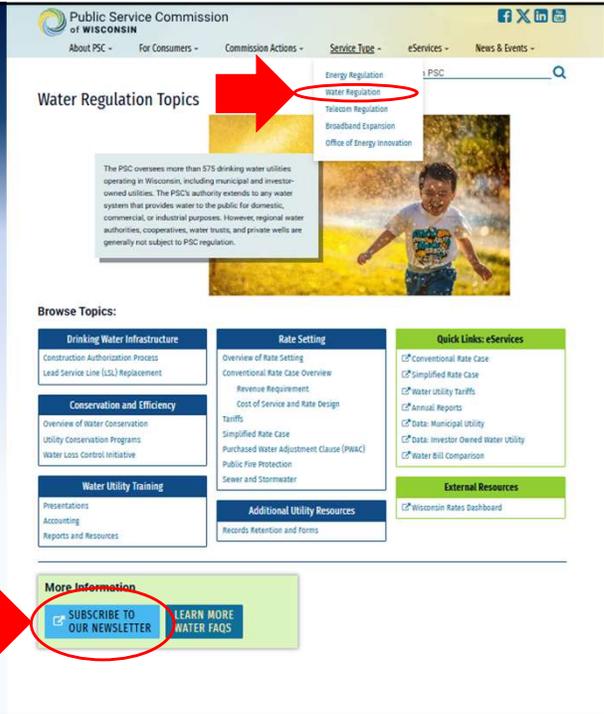
- We will upload to our website (search for "LSL"):
 - A recording of the presentation
 - Copies of these slides
- We will be developing additional resources, including:
 - FAQs
 - LS Application Updates (potential)
- If helpful, we will do additional webinars on this topic.
- Watch for updates in our newsletter, *Currents*.



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Stay in touch...

- From the PSC Home Page, click on "Water Regulation" under "Service Type"
- Click on "Subscribe To Our Newsletter" at the bottom of the page.



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Questions

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 608.267.8990



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