

ALERTS**Government Services And Finance Law Alert -
Indiana On Cutting Edge Of Lead Service Line
Replacement For Water Utilities**

April 28, 2017 | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Dallas](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [South Bend](#)

For 25 years, the U.S. Environmental Protection Agency (EPA), through its Lead and Copper Rule, has been urging the replacement of lead service lines to minimize the health risks from exposure to lead in drinking water. Until recently, the federal government has provided no funds to address a major impediment to this objective: How do utilities help customers pay for replacing portions of service lines that are owned by the customer? The Water Infrastructure Improvements for the Nation Act, passed by Congress and signed into law late last year, began to address this funding gap by providing grant funding for low-income customers through the Drinking Water State Revolving Fund.

In the past 10 days, Indiana has placed itself at the cutting edge of facilitating lead service line replacement and is supplementing the federal program. On April 26, the Indiana Utility Regulatory Commission (IURC) issued an order in *City of East Chicago*, Cause No. 44826, approving a program whereby the Indiana Finance Authority (IFA) will provide low-interest loans to help East Chicago replace all lead service lines in its system. The IFA lowered the interest rate and increased the principal by \$3.1 million to provide enough funds for East Chicago to replace the customer service lines without increasing annual debt service payments. The commission explained: "While . . . it is clear that all ratepayers will be paying . . . on the proposed \$18 million in financing, which includes funding for replacement of customer-owned lines . . . it would be short-sighted for this Commission to ignore the potential benefits of replacing customer-owned lead infrastructure." The takeaway from the case for other communities is that the Indiana Finance Authority has funds available for lead service line replacement programs and is willing to enter into innovative financial transactions to help communities address this problem.

At the same time the IURC was considering *East Chicago*, the Indiana General Assembly was enacting House Enrolled Act 1519, which was signed by Gov. Holcomb on April 20. This law allows regulated water utilities to propose programs whereby the utility's investment in replacing the customer-owned portion of lead service lines will be included in the utility rate base upon which it is authorized to earn a return. The new law requires a plan to be filed with the IURC that explains how the service line replacement will be completed in conjunction with ongoing infrastructure replacement.

In these two moves, Indiana is now at the head of the pack in addressing lead service line replacement and could be creating a model for other states to follow.

For more information, please contact the Barnes & Thornburg lawyer with

RELATED PEOPLE**Nicholas K. Kile**

Partner
Indianapolis

P 317-231-7768
F 317-231-7433
nicholas.kile@btlaw.com

**Parvin Price**
Of Counsel (Retired)

P 317-231-7721
parvin.price@btlaw.com

**Kimberly W. Blanchet**

Partner
Indianapolis

P 317-231-7454
F 317-231-7433
kimberly.blanchet@btlaw.com

**Hillary J. Close**

Partner
Indianapolis

P 317-231-7785
F 317-231-7433
hillary.close@btlaw.com

RELATED INDUSTRIES

Energy and Utilities
Government Services

whom you readily work or contact directly: Nick Kile at Nicholas.Kile@btlaw.com or 317-231-7768; Parvin Price at Parvin.Price@btlaw.com or 317-231-7721; Kimberly Blanchet at Kimberly.Blanchet@btlaw.com or 317-231-7454; or Hillary Close at Hillary.Close@btlaw.com or 317-231-7785.

© 2017 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.

This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.

Visit us online at www.btlaw.com and follow us on Twitter [@BTLawNews](https://twitter.com/BTLawNews).

Telecommunications