



Montana

Water and wastewater utilities in Montana fall under multiple rate setting regulatory systems.

Commission-regulated utilities	
Noncommission-regulated utilities	

Commission-Regulated Utilities

The **Montana Public Service Commission (MPSC)** regulates the rates and services of private water and wastewater companies pursuant to **Mont. Code Ann. § 69-1-102** and **§ 69-3-102**. MPSC does not regulate government-owned water or wastewater utilities.²¹¹

Mont. Code Ann. § 69-3-201 requires commission-regulated utilities to charge rates that are “reasonable and just” and stipulates that “every unjust and unreasonable charge is prohibited and declared unlawful.” Additionally, **Mont. Code Ann. § 69-3-305** states that a commission-regulated utility “may not charge, demand, collect, or receive a greater or less compensation for a utility service.” **Mont. Code Ann. § 69-3-305** prohibits commission-regulated utilities from granting any rebate, concession, or special privilege to consumers that “directly or indirectly, has or may have the effect of changing the rates, tolls, charges, or payments.” However, **Mont. Code Ann. § 69-3-306** gives the MPSC authority to “prescribe classifications of service” that can take into account “the quantity used, the time when used, and any other reasonable considerations.”

Thus, despite a prohibition on the granting of rebates or special privileges, it appears that, through **Mont. Code Ann. § 69-3-306**, commission-regulated utilities in Montana could potentially provide low-income customer assistance programs (CAPs) funded by rate revenues, if such rates were approved by the MPSC as part of the utility’s official rate schedule.²¹²

Noncommission-Regulated Utilities

Municipal-owned utilities, consolidated local government water supply and wastewater districts, metropolitan sanitary and/or storm sewer districts, and county water and/or wastewater districts are not regulated by

211. The MMPSC also does not regulate providers that serve themselves only, including individuals, member-owned cooperatives, or associations serving members only.

212. At least one commission-regulated utility in Montana currently offers a bill discount program funded by customer revenues. Mountain Water Company offers monthly bill discounts for customers who qualify for the **Low Income Home Energy Assistance Program**.

State Population (2016):	1,042,520
Median Annual Household Income (2015):	\$47,169
Poverty Rate (2015):	15.2%
Typical Annual Household Water and Wastewater Expenditures:	N/R
Montana has 728 community water systems (CWS), of which 500 are privately owned and 720 serve populations of 10,000 or fewer people.	
Montana has 162 publicly owned treatment works facilities (POTWs), of which 147 treat 1 MGD or less.	
141,262 people are served by privately owned CWS; 574,689 are served by government-owned CWS; and 525,659 are served by POTWs.	
Estimated Long-Term Water and Wastewater Infrastructure Needs:	\$1.2 billion
<i>Sources: U.S. Census Bureau, 2016 Population Estimate & 2011–2015 American Community Survey 5-Year Estimates; 2016 EFC Rates Survey; U.S. Environmental Protection Agency, 2016 Safe Drinking Water Information System, 2011 Drinking Water Infrastructure Needs Survey, and 2012 Clean Watersheds Needs Survey. See Appendix C for more details.</i>	

the MPSC. Rather, different state statutes govern each of these different types of utilities. Utilities owned by a municipality²¹³ are generally authorized to implement “reasonable and just” rates for customers under **Mont. Code Ann. § 69-7-101**. However, **Mont. Code Ann. § 7-13-4305** provides that municipal-owned wastewater and water utility customers shall not “be permitted to use said system unless they pay the full and established rate for said service” and that “no person may have service reestablished after it is discontinued . . . unless they have paid the full amount past due, any interest or penalty on such past-due amount, and any required reestablishment deposit.” Further, **Mont. Code Ann. § 7-13-4304** states that municipal-owned utility rates

213. According to **Mont. Code Ann. § 7-1-4121**, a municipality is “an entity that incorporates as a city or town.”

“shall be uniform for like services in all parts of the municipality.” Although these provisions contain potential limitations on rate setting, Montana is also a home rule state,²¹⁴ and therefore, municipal-owned utilities may have more leeway to implement different rates pursuant to local law.

Under [Mont. Code Ann. § 7-13-3026](#), the governing bodies of consolidated local government water supply and wastewater districts are permitted to establish by ordinance or resolution “just and equitable” rates. This section also requires that “the rates, charges, and rentals must be as nearly as possible equitable in proportion to the services and benefits rendered...” Similar authority is provided for metropolitan sanitary and/or storm sewer districts and municipal-owned wastewater and/or water utilities.²¹⁵

Additionally, [Mont. Code Ann. § 7-13-2301](#) authorizes the board of directors of county water and/or wastewater districts to fix water and wastewater rates, with no limiting language.

Thus, there are few statutory limitations on rate setting for most government-owned utilities. Municipal-owned utilities appear to have the greatest potential for legal challenges if such entities were to implement low-income CAPs funded by rate revenues, specifically due to the uniformity requirement and the requirement that customers must pay the “full and established rate” for service. Additionally, any government-owned utility would need to consult the applicable home rule charter within which it operates to make sure there are no local law restrictions against rate-funded CAPs.²¹⁶

214. Montana grants all powers to local governments through home rule.

215. See [Mont. Code Ann. § 7-13-141](#) and [§ 7-13-4304](#).

216. The city of Bozeman currently offers a bill discount program funded by customer revenues. Under the program, the city credits back the fixed service charge portion of water and wastewater bills to participants. The program is available to homeowners who qualify for the State of Montana’s property tax assistance program for low-income homeowners.