



Rhode Island

Water and wastewater utilities in Rhode Island fall under several rate setting regulatory systems.

Commission-Regulated Utilities

Under 39 R.I. Gen. Laws § 39-1-2, the Rhode Island Public Utilities Commission (PUC) and the Division of Public Utilities and Carriers (DPUC) regulate the rates and services of private water and wastewater companies, as well as municipal water utility boards that serve areas outside the boundaries of their respective municipality.³²³ Pursuant to 39 R.I. Gen. Laws § 39-1-2, the Rhode Island PUC and the DPUC do not regulate municipal-owned utilities. With respect to commission-regulated utilities, 39 R.I. Gen. Laws § 39-1-1(3)(b) stipulates that the state’s policy is to provide water supplies using “just and reasonable” rates “without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices.” 39 R.I. Gen. Laws § 39-15.1-3(b)(3) directly addresses equitability in rates for commission-regulated utilities, requiring that “where practicable, rates shall be based on metered usage and fairly set among and within the classes and/or types of users.” This statute also provides commission-regulated utilities with the authority to establish a “basic residential use rate for water use that is designed to make a basic level of water use affordable.”³²⁴

In *Blackstone Valley Chamber of Commerce v. Public Utilities Commission*,³²⁵ the court reviewed the legality of a rate increase that applied to all customers but which was not imposed on the first 300 kWh of usage by residential customers. The court found that this exemption was intended to provide a “lifeline rate” designed for the “benefit of elderly or poor residential

323. The Rhode Island PUC serves as a quasi-judicial tribunal that holds investigations and hearings involving the rates of commission-regulated water utilities, whereas the Division of Public Utilities and Carriers exercises jurisdiction, supervision, powers, and duties not specifically assigned to the Rhode Island PUC. The Rhode Island PUC also regulates some government-owned utilities, such as for the City for Providence, that obtain water from a source owned or leased by the water resources board or serving customers outside the boundaries of their municipality. The Rhode Island PUC also regulates Kent County Water Authority.

324. 39 R.I. Gen. Laws § 39-15.1-3(b)(3). However, this seems to indicate a lower rate for a first tier of usage for all customers, rather than a special rate or discount for low-income customers.

325. *Blackstone Valley Chamber of Commerce v. Pub. Utils. Comm’n*, 396 A.2d 102, 104 (R.I. 1979).

Commission-regulated utilities	
Noncommission-regulated utilities	

State Population (2016):	1,056,426
Median Annual Household Income (2015):	\$56,852
Poverty Rate (2015):	14.2%
Typical Annual Household Water and Wastewater Expenditures:	N/R
Rhode Island has 93 community water systems (CWS), of which 43 are privately owned and 78 serve populations of 10,000 or fewer people.	
Rhode Island has 20 publicly owned treatment works facilities (POTWs), of which 7 treat 1 MGD or less.	
34,263 people are served by privately owned CWS; 988,063 are served by government-owned CWS; and 768,736 are served by POTWs.	
Estimated Long-Term Water and Wastewater Infrastructure Needs:	\$2.0 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>	

users.”³²⁶ The court reiterated that “public service companies are not eleemosynary³²⁷ institutions, and they cannot be compelled to devote their property to a public use except upon the well-recognized basis of a fair and reasonable return therefor. Through general taxation only, in common with all taxpayers, can they be compelled to contribute to the relief of the distressed.”

³²⁸The court extended this principle to the customers of a commission-regulated utility, holding that such “customers cannot be compelled to devote their property in the form of utility payments for the benefit of those deemed worthy by the commission to be subsidized,

326. *Id.* at 104.

327. Eleemosynary is an adjective that describes things related to charitable giving.

328. *Blackstone Valley Chamber of Commerce*, 396 A.2d at 104 (R.I. 1979) (citing *State ex rel. Puget Sound Power & Light Co. v. Dep’t. of Pub. Works*, 38 P.2d 350, 353 (1934)).

particularly in the absence of any specific statutory authority for the commission to mandate such a result.”³²⁹

Thus, for commission-regulated utilities, state statutes prohibiting rates that are unjustly discriminatory or which provide undue preferences or advantages could create the potential for legal challenges to low-income customer assistance programs (CAPs) funded by rate revenues. Additionally, strong state case law expressly discourages the use of differences in rates in order to subsidize certain classes of customers.

Noncommission-Regulated Utilities

For municipal-owned utilities, [45 R.I. Gen. Laws § 45-39.1-5\(b\)\(1\)](#) requires that rates, apart from service charges and other fixed fees and charges, “be based on metered usage and fairly set among and within the classes and/or types of users.” [45 R.I. Gen. Laws § 45-39.1-5 \(b\)\(3\)](#) also specifically authorizes municipal-owned water utilities to “provide a basic residential use rate for water use that is designed to make a basic level of water use affordable.” [45 R.I. Gen. Laws § 45-39.1-5\(a\)](#) states that the rates of municipal-owned water utilities shall be “adequate to pay for all costs associated with the municipal water supply.”³³⁰

Therefore, similar to commission-regulated utilities, municipal-owned utilities seeking to implement low-income CAPs funded by rate revenues are not expressly prohibited from doing so, but they could face legal challenges rooted in the limiting statutory language articulated above. Additionally, cities in Rhode Island, which operate pursuant to individual municipal charters, may have more leeway with respect to establishing different rates among and within customer classes, but they also would be subject to any limitations found in individual municipal charters.

329. Id.

330. The statute goes on to provide a nonexclusive list of what may be included in such costs, but it does not reference any affordability programs. [45 R.I. Gen. Laws § 45-39.1-5\(a\)](#).