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

**Commission-Regulated Utilities**

The Regulatory Commission of Alaska (RCA) regulates most water and wastewater utilities in Alaska. It gains its jurisdiction over water and wastewater utilities from Alaska Stat. § 42.05.141. Government-owned utilities are exempted from RCA rate regulation, unless the governing body of the political subdivision elects to be regulated, or unless the political subdivision utility directly competes with another utility.

Under Alaska Stat. § 42.05.141, the RCA is granted the power to make or require “just, fair, and reasonable” rates for a commission-regulated utility. Additionally, Alaska Stat. § 42.05.381(a) requires that all rates shall be “just and reasonable,” and Alaska Stat. § 42.05.391 prohibits any commission-regulated utility as to rates from “grant[ing] an unreasonable preference or advantage to any of its customers or subject[ing] a customer to an unreasonable prejudice or disadvantage.”

Additionally, the same section provides that commission-regulated utilities may not establish or maintain an unreasonable difference as to rates, either between localities or between classes of service, and prohibits such utilities from “directly or indirectly refund[ing], rebat[ting], or remit[ting] . . . any portion of rates or charges, or from receiv[ing] greater or lesser compensation for its services than is specified in the effective tariff.” Finally, Alaska Stat. § 42.05.391(c) provides that a commission-regulated utility “may not extend to any customer any form of contract, agreement, inducement, privilege, or facility, or apply any rule, regulation, or condition of service except such as are extended or applied to all customers under like circumstances.”

In response to a challenge to discriminatory rates allegedly put in place by a commission-regulated gas utility, the Alaska Supreme Court held that although unreasonable discriminatory rates are unlawful, discrimination based on justified difference in cost of service or which is otherwise within the zone of reasonableness is permissible. In the same case, the Court further held that when “the rate structure is such that one class of customers subsidizes another, discrimination may pass beyond its permitted scope and become undue or unreasonable.”

In summary, rates of such utilities are not subject to regulation by the Regulatory Commission of Alaska.

Thus, commission-regulated water and wastewater utilities

27. Alaska Stat. § 42.05.711(b). This section specifically exempts political subdivision utilities from regulation under that entire chapter, with some exceptions related to requirement of a certificate. Most important for the purposes of this summary, the rates of such utilities are not subject to regulation by the Regulatory Commission of Alaska.
28. Alaska Stat. § 42.05.391.
utilities in Alaska seeking to implement low-income customer assistance programs (CAPs) funded by rate revenues could potentially be limited by the strong statutory language, which appears to restrict utilities from offering any type of benefit to only one customer or group of customers.

**Noncommission-Regulated Utilities**

Municipalities\(^3\) in Alaska, which are not regulated by the RCA, are subject to the limitations found in general Alaska law, or in the case of home rule municipalities, subject to the limitations found in their individual charters. Alaska Stat. § 29.35.070 provides that the governing body of a municipality may regulate, fix, establish, and change the rates and charges for utility service provided to it by a utility not regulated by the RCA.\(^{32}\) Further, under that same section, the municipality must fix the rates through ordinance, and such rates must be *reasonable* and permit a fair return on invested capital.\(^{33}\) There do not appear to be any further statutory restrictions or requirements regarding rates set by noncommission-regulated utilities.

Given the broad authority of noncommission-regulated utilities over their rates, such utilities would likely be able to implement a low-income CAP utilizing rate revenues with less potential for legal challenge than commission-regulated utilities would face.