

Massachusetts

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

Commission-Regulated Utilities

The [Water Division of the Department of Public Utilities](#) (DPU) has supervisory authority over private water and wastewater companies in Massachusetts arising under [Mass. Gen. Laws ch. 165, § 4](#).

The DPU does not regulate municipal corporations. According to its website, the Water Division’s supervisory role is administered through the Rates and Revenue Requirements Division, which “assists in developing the evidentiary record in adjudicatory proceedings concerning the rates or finances of the public water companies doing business in Massachusetts.”¹⁸⁴

Under [Mass. Gen. Laws ch. 165, § 1B](#), the DPU’s Water Division is granted the power to establish reasonable rules and regulations to carry out its supervisory duties. Additionally, “water districts,” which are self-governing districts created by special acts of the General Court, are required to file their rates with the department for informational purposes under [Mass. Gen. Laws ch. 165, § 2A](#). However, because DPU’s authority over investor-owned utilities is supervisory, there are no state statutes providing it with rate setting authority, nor are there any guiding principles found in the statutes related to commission-regulated utilities, dictating how rates should be set.

Thus, given this lack of specific statutory limitations or prohibitions, it appears that commission-regulated utilities could implement low-income customer assistance programs (CAPs) utilizing rate revenues.

Noncommission-Regulated Utilities

Massachusetts municipalities operate under home rule, according to the Home Rule Amendment in [Mass. Const. art. LXXXIX](#) and the Home Rule Procedures Act, [Mass. Gen. Laws ch. 43B](#). There are no general limitations on rate setting found in the statutes governing all municipalities. However, for municipalities that

Commission-regulated utilities



Noncommission-regulated utilities



State Population (2016):	6,811,779
Median Annual Household Income (2015):	\$68,563
Poverty Rate (2015):	11.6%
Typical Annual Household Water and Wastewater Expenditures (2015):	\$1,000
Massachusetts has 526 community water systems (CWS), of which 194 are privately owned and 361 serve populations of 10,000 or fewer people.	
Massachusetts has 126 publicly owned treatment works facilities (POTWs), of which 62 treat 1 MGD or less.	
234,731 people are served by privately owned CWS; 9,120,698 are served by government-owned CWS; and 4,783,926 are served by POTWs.	
Estimated Long-Term Water and Wastewater Infrastructure Needs:	\$15.8 billion

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.

so choose, [Mass. Gen. Laws ch. 40N](#), the Model Water and Sewer Reorganization Act, provides for the creation of a Water and Sewer Commission for a municipality.¹⁸⁵ One of the duties of such a commission is to set rates for water or wastewater services provided by the municipal utility under [Mass. Gen. Laws ch. 40N, § 9](#). The rate setting power is not limited by standards of reasonableness or prohibitions on discriminatory rates; however, the commission is required to set rates that will at least be sufficient to meet certain operating expenses, and any surplus at the end of the fiscal year is *required* to be applied to either a reduction in rates for the following year or a reduction in capital debt.

184. “[Water Division Responsibilities](#),” Executive Office of Energy and Environmental Affairs.

185. The language in the Model Water and Sewer Reorganization Act specifies that it applies to a city or town “that accepts the provisions of [the] chapter,” or a municipality “which accepts [the] act.” [Mass. Gen. Laws ch. 40N, § 4](#).

[Mass. Gen. Laws ch. 40N, § 9\(e\)](#). Additionally, because some municipalities in Massachusetts operate under their own individual home rule charters, there may be limitations on rate setting for water or wastewater utilities in such charters. In sum, government-owned utilities have broad rate-making authority, with few, if any limitations or prohibitions that would prevent them from being able to implement low-income CAPs funded by rate revenues.

Additionally, Massachusetts currently offers the Low-income Sewer and Water Assistance Program, authorized by [Mass. Gen. Laws ch. 23B, § 24B](#). This statewide program is implemented by the Department of Housing and Community Development and may be implemented in conjunction with the [Low Income Home Energy Assistance Program \(LIHEAP\)](#). To the maximum extent possible, the program is required to use the same grantee agencies, as well as similar applications and verification procedures, as are used by the LIHEAP. Recipients of the assistance may receive up to 25 percent of their annual water and wastewater bills, depending on the amount of funds designated for the program in a fiscal year.