



Tennessee

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

Commission-regulated utilities	
Noncommission-regulated utilities	

Commission-Regulated Utilities

The **Tennessee Regulatory Authority (TRA)** regulates private water and wastewater companies. It gains its jurisdiction over such entities from **Tenn. Code Ann. § 65-4-104**, **§ 65-5-110**, and **§ 65-5-101**.³⁴¹ TRA does not regulate municipal-owned water and wastewater utilities.³⁴²

Commission-regulated utilities in Tennessee are prohibited from charging “unjust, unreasonable, unduly preferential or discriminatory” rates.³⁴³ The TRA gains exclusive power to fix “just and reasonable rates” by **Tenn. Code Ann. § 65-5-101**. In addition, under **Tenn. Code Ann. § 65-5-103**, TRA has the power to review rate changes. Based on the statutory limitations articulated above, commission-regulated utilities would potentially need TRA approval to implement low-income customer assistance programs (CAPs) funded by rate revenues. Additionally, the prohibition on rates that are “unduly preferential or discriminatory” would likely hold the greatest potential for legal challenge to such programs.

Noncommission-Regulated Utilities

Municipal-owned water and wastewater utilities, not regulated by TRA, gain power to own and operate water and wastewater utilities and to charge rates for such utility services from **Tenn. Code Ann. § 7-35-401**. Additionally, under **Tenn. Code Ann. § 7-35-414**, the rates imposed by the municipalities must be “just and equitable.”

Tenn. Code Ann. § 7-82-302 provides public utility districts with the power to own and operate water and wastewater utilities. With respect to rates, **Tenn. Code Ann. § 7-82-403** requires that rates implemented by the board of commissioners of a public utility district

341. Under **Tenn. Code Ann. § 65-4-101**, public utilities are defined as “every individual, co-partnership, association, corporation, or joint stock company, its lessees, trustees, or receivers, appointed by any court whatsoever, that own, operate, manage or control, within the state, any water services.”

342. **Tenn. Code Ann. § 7-34-106**, **§ 7-34-102**.

343. **Tenn. Code Ann. § 65-4-114**, **§ 65-5-104**.

State Population (2016):	6,651,194
Median Annual Household Income (2015):	\$45,219
Poverty Rate (2015):	17.6%
Typical Annual Household Water and Wastewater Expenditures (2015):	\$504
Tennessee has 473 community water systems (CWS), of which 51 are privately owned and 340 serve populations of 10,000 or fewer people.	
Tennessee has 253 publicly owned treatment works facilities (POTWs), of which 174 treat 1 MGD or less.	
224,593 people are served by privately owned CWS; 6,517,803 are served by government-owned CWS; and 3,963,731 are served by POTWs.	
Estimated Long-Term Water and Wastewater Infrastructure Needs:	\$4.2 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.

be “reasonable,” and **Tenn. Code Ann. § 7-82-402** allows a customer to contest the rates before the board of commissioners on the basis that the rates are too high or too low and, therefore, unreasonable.³⁴⁴

Therefore, for government-owned water and wastewater utilities, the ability to implement low-income CAPs funded by rate revenues is limited only by the “just and equitable” rate requirement for municipalities and the “reasonableness” rate requirement for public utility

344. Additionally, **Tenn. Code Ann. § 7-82-102** provides a rate review process to be applied in all counties or districts by a utility management review board. Specifically, the law allows for the review board to review the rates of a public utility district upon receipt of a petition signed by at least 10 percent of the public utility district’s customers. However, the statute does not provide that the rates must fit any specified criteria, other than that they must be in compliance with the rules provided under the chapter addressing utility districts, which require only “reasonable” rates.

districts.

It is also worth mentioning that in its environmental health and safety statutes, Tennessee provides explicit protection for low-income customers who are directly affected by rate increases due to necessary changes and improvements to water and wastewater facilities to meet water quality standards. Specifically, [Tenn. Code Ann. §68-221-1009](#) specifies the duties of wastewater financing boards, which assist with water and wastewater utilities' financing of efforts to meet water quality compliance goals. One such duty is to “[a]meliorate the burden of rate increases” due to such efforts, “borne by low-income customers of water systems and wastewater facilities through the establishment and administration of a rate subsidy program to the extent state appropriations are available.”³⁴⁵ Such a provision would help to protect low-income customers against major rate hikes due to the replacement of aging infrastructure, or replacement of pipes to assist with lead abatement.

³⁴⁵ Id.