

# Utah

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

## Commission-Regulated Utilities

Under [Utah Code Ann. § 54-4a-1](#) and [§ 54-4-1](#), the [Utah State Department of Commerce Division of Public Utilities](#) (DPU) and the [Utah Public Service Commission](#) (PSC) regulate private water and wastewater companies. The DPU “makes recommendations to the Utah Public Service Commission for ratemaking purposes” and is an independent party representing the broad public interest.<sup>351</sup> The PSC ensures “safe, reliable, adequate, and reasonably priced utility service” and “conducts hearings and investigations of utility company operations in order to determine just and reasonable rates for service.”<sup>352</sup> Neither the DPU nor PSC regulates the rates or services of government-owned water or wastewater utilities.



Objectives for the DPU are established under [Utah Code Ann. § 54-4a-6](#), which stipulates that the DPU shall provide information and recommendations that allow the PSC to “provide for just, reasonable, and adequate rates” and to “prevent undue discrimination in rate relationships.” [Utah Code Ann. § 54-4-4.1](#) allows the PSC to adopt “any method of rate regulation that is...in the public interest, and just and reasonable.”<sup>353</sup> [Utah Code Ann. § 54-3-1](#) further defines the scope of “just and reasonable” as including but not limited to “the cost of providing service to each category of customer, *economic impact of charges on each category of customer*, and on the well-being of the state of Utah; methods of reducing wide periodic variations in demand of such products, commodities or services, and means of encouraging conservation of resources and energy.”

Although these statutes provide some room for interpretation with respect to allowable rate models, [Utah Code Ann. § 54-3-7](#) prohibits commission-regulated utilities from refunding any portion of rates, or extend-

351. “About the Division of Public Utilities,” Utah State Department of Commerce Division of Public Utilities.

352. “History,” Utah Public Service Commission.

353. See *American Salt Co. v. W.S. Hatch Co.*, 748 P.2d 1060, 1063 (Utah 1987) (establishing that a just and reasonable rate as “one that is sufficient to permit utility to recover its costs of service and earn reasonable return for its enterprise”).

Commission-regulated utilities	
Noncommission-regulated utilities	



<b>State Population (2016):</b>	3,051,217
<b>Median Annual Household Income (2015):</b>	\$60,727
<b>Poverty Rate (2015):</b>	12.3%
<b>Typical Annual Household Water and Wastewater Expenditures (2015):</b>	\$595
Utah has 473 community water systems (CWS), of which 154 are privately owned and 416 serve populations of 10,000 or fewer people.	
Utah has 107 publicly owned treatment works facilities (POTWs), of which 84 treat 1 MGD or less.	
95,168 people are served by privately owned CWS; 2,860,617 are served by government-owned CWS; and 1,111,777 are served by POTWs.	
<b>Estimated Long-Term Water and Wastewater Infrastructure Needs:</b>	\$4.5 billion
<i>Sources: U.S. Census Bureau, 2016 Population Estimate &amp; 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>	

ing to any person any form of agreement, or privilege “except such as are regularly and *uniformly* extended to all corporations and persons.” Furthermore, [Utah Code Ann. § 54-3-8](#) states that commission-regulated utilities may not “make or grant any preference or advantage to any person” with regard to rates, nor “establish or maintain any unreasonable difference as to rates... between classes of service.” According to [Mountain States Legal Foundation v. Utah Public Service Commission](#),<sup>354</sup> this includes extending a lower electrici-

354. *Mountain States Legal Found. v. Utah Pub. Serv. Comm'n*, 636 P.2d 1047, 1057 (Utah 1981). Specifically, the Utah Supreme Court held that although the legislature may not have flatly precluded “senior citizen rates” for electricity, the Public Service Commission’s findings in support of a “senior citizen rate” were inadequate as a matter of law, where the commission’s decision was based solely on the general proposition that senior citizens, on average, receive less gross income and consume less power than the general residential class. Id. at 1057.

ty service rate to senior citizens based only on evidence that senior citizens generally have lower incomes and generally use less electricity.

Thus, for commission-regulated utilities, the statutes prohibiting the granting of preferences or advantages in terms of rates, and the uniformity requirement articulated above, hold the greatest potential barriers to implementation of low-income customer assistance programs (CAPs) funded by rate revenues. However, the overarching language framing the rate setting role of the DPU and PSC appears to encourage consideration of the economic impacts of rates on low-income customers.

### *Noncommission-Regulated Utilities*

As a home rule state, government-owned water and wastewater utilities in Utah have broad authority to set rates. The statute permitting municipalities to establish rates for water service, [Utah Code Ann. § 10-8-22](#), is very terse, stating only that “they may fix the rates to be paid for the use of water furnished by the city.” [Utah Code Ann. § 10-7-14](#) further states that “every city and town may enact ordinances, rules and regulations for the management and conduct of the waterworks system owned or controlled by it.” No state statutes prohibit other forms of government-owned utilities, such as water improvement districts, from providing low-income CAPs or cross subsidies.

Thus, with no limiting requirements for rate setting, government-owned utilities seem to have broad authority to implement low-income CAPs funded by rate revenues, subject to local law. As detailed in the U.S. EPA’s 2016 compendium, *Drinking Water and Wastewater Utility Customer Assistance Programs*, the Granger-Hunter Improvement District, a water and wastewater utility serving approximately 120,000 customers in central Salt Lake County, currently offers a bill discount to income-qualifying service men and women serving full-time active military duty. In addition, Salt Lake City Public Utilities currently offers a bill discount CAP to customers who qualify for the Salt Lake County tax abatement program. Both of these programs are funded through consumer revenues.