Idaho

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

Commission-Regulated Utilities

The Idaho Public Utilities Commission (Idaho PUC) regulates private water and wastewater companies in the state. The commission does not regulate government-owned utilities. The Idaho PUC gains its jurisdiction to regulate private utilities from Idaho Code § 61-501, § 61-502, § 61-503, § 61-507, and § 61-520. The Idaho PUC is required to set “just and reasonable” rates. Furthermore, commission-regulated utilities are statutorily required to have “just and reasonable” rules and regulations that “pertain to charges or service.” Idaho Code § 61-301 requires commission-regulated utilities to submit any proposed rate changes to the Idaho PUC, and Idaho Code § 61-313 prohibits the same utilities from deviating from the rates in their approved schedules.

Additionally, Idaho Code § 61-315 prohibits utilities from engaging in discrimination or preference, or from “establishing or maintaining any unreasonable differences between localities or classes of service.” The Idaho Supreme Court has held that the criteria for differentiation of rates include “the quantity of the utility used, the nature of the use, the time of use, the pattern of use, the differences in the conditions of service, the costs of service, the reasonable efficiency and economy of operation and the actual differences in the situation of the consumers for the furnishing of the service.” Ultimately, the commission has the power to determine which factors weigh the heaviest and what constitutes a reasonable rate. However, even with some of these considerations potentially opening the door for assistance programs, in Rowland v. Kellogg Power & Water Co., the Idaho Supreme Court held, “the furnishing of water to (people) without paying the uniform rate charged like users is positively prohibited.”

Thus, if commission-regulated utilities in Idaho seek to implement low-income customer assistance programs (CAPs) funded by rate revenues, such programs would be subject to legal challenges based on the aforementioned case law. Such utilities would also need approval from the Idaho PUC in order to implement lower rates for low-income customers.

Noncommission-Regulated Utilities

Government-owned utilities, including municipalities and cities, have the right to operate and maintain rates for water utilities. However, Idaho Const. art. VIII, § 3 requires that municipalities must not incur indebtedness without a two-thirds majority in an election.
held for the purpose of approving the indebtedness. Although this section does not apply to “ordinary and necessary” expenses authorized by the general laws of the state, such ordinary and necessary expenses are usually related to infrastructure improvements or employees of the municipality.114

Therefore, although noncommission-regulated utilities appear to have relatively broad rate-setting authority, any low-income CAPs funded by rate revenues would potentially be subject to the two-thirds majority vote requirement outlined above. Furthermore, low-income CAPs would still be subject to legal challenge based on the holding in Rowland, as stated above.