



# Maine

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

## Commission-Regulated Utilities

The **Maine Public Utilities Commission** (Maine PUC) regulates the rates and services of all public utilities to ensure that all “citizens have access to safe and reliable utility services at rates that are just and reasonable for all ratepayers.” The Maine PUC regulates both investor- and consumer-owned water utilities,<sup>174</sup> but does not regulate wastewater utilities.

With respect to commission-regulated utilities, **Me. Stat. tit. 35-A, § 301** requires that every rate or charge be “just and reasonable.”<sup>175</sup> The same statute also stipulates that a commission-regulated utility shall provide revenue sufficient “to perform its public service and to attract necessary capital on just and reasonable terms.”<sup>176</sup> The inclusion of “public service” seems to suggest that commission-regulated utilities have the ability to establish rates that cover more than strictly the cost of service.

Under **Me. Stat. tit. 35-A, § 702**, it is unlawful for a commission-regulated utility “to give any undue or unreasonable preference, advantage, prejudice or disadvantage to a particular person.” However, **Me. Stat. tit. 35-A, § 703** specifically allows such utilities to provide “free and special rates” under certain circumstances, including for charitable or benevolent purposes. However, the statute further indicates that any special rate or discount would need approval from the Maine PUC

Commission-regulated utilities	
Noncommission-regulated utilities	

<b>State Population (2016):</b>	1,331,479
<b>Median Annual Household Income (2015):</b>	\$49,331
<b>Poverty Rate (2015):</b>	13.9%
<b>Typical Annual Household Water and Wastewater Expenditures (2016):</b>	\$1,348
Maine has 375 community water systems (CWS), of which 235 are privately owned and 362 serve populations of 10,000 or fewer people.	
Maine has 135 publicly owned treatment works facilities (POTWs), of which 103 treat 1 MGD or less.	
111,630 people are served by privately owned CWS; 557,944 are served by government-owned CWS; and 623,598 are served by POTWs.	
<b>Estimated Long-Term Water and Wastewater Infrastructure Needs:</b>	\$2.1 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.*

as part of a utility’s rate schedule.<sup>177</sup>

State statutes provide separate rate setting regulations for water districts and water departments, which are consumer-owned utilities. Specifically, **Me. Stat. tit. 35-A, § 6105-3** stipulates that the governing body of such utilities may charge higher rates within sections of its service area where costs exceed the average, but those higher rates must apply to all customers within the section. **Me. Stat. tit. 35-A, § 6105-3A** allows for a reduction in impact or connection fees for newly

174. In Maine, “investor-owned” water utilities are privately held entities that provide water service for profit. “Consumer-owned” water utilities are not operated for profit and are organized as water districts, quasi-municipal entities created by the state legislature, or water departments operated by municipal governments. Water districts are quasi-municipal entities created by the state legislature through special acts and, in many cases, serve customers within multiple municipalities. Water departments are municipal divisions and generally provide service only to their particular municipality.

175. See **Cent. Maine Power Co. v. Pub. Utils. Comm’n**, 382 A.2d 302, 326-28 (Me. 1978) (holding that the concept of a “just and reasonable” rate for a utility does not signify particular single rate as the only lawful rate but rather encompasses a range within which rates may be deemed just and reasonable both in terms of revenue level and rate design; it is within sound discretion of the Maine PUC to fix the exact level and design within that range).

176. **Me. Stat. tit. 35-A, § 301. Me. Stat. tit. 35-A, § 6105** also requires the governing body to provide the rate schedule and any changes to the rate schedule to the Maine PUC.

177. Specifically, the statute provides that “no person may knowingly solicit, accept or receive any rebate, discount or discrimination in respect to any service rendered, or to be rendered by a public utility, or for any related service where the service is rendered free or at a rate less than named in the schedules in force, or where a service or advantage is received other than is specified.” **Me. Stat. tit. 35-A, § 703.**

constructed affordable housing. Finally, [Me. Stat. tit. 35-A, § 6105-4](#) lists seven purposes for which a governing body of a consumer-owned utility may establish rates and prohibits the use of revenues for any other purpose. None of the allowable purposes includes providing subsidies to low-income or other classes of customers.

Based on these statutes, it appears that consumer-owned water utilities would not be able to provide low-income customer assistance programs (CAPs) funded by customer revenues.<sup>178</sup> However, the Maine PUC has indicated that [Me. Stat. tit. 35-A, §703](#), which allows public utilities to provide “free and special rates” for charitable or benevolent purposes, can be interpreted as applicable to all commission-regulated utilities, including both investor- and consumer-owned water utilities.<sup>179</sup>

### *Noncommission-Regulated Utilities*

Government-owned wastewater utilities, referred to in Maine as sanitary districts, are not regulated by the Maine PUC. Under [Me. Stat. tit. 38, § 1202](#), the same language as is found in the statutes that provide rate setting standards for water districts or water departments applies to sanitary districts. Therefore, given the limiting language related to “allowable purposes” for which sanitary districts can generate revenues, as well as the requirement that the rates of these utilities be uniform, it appears that these utilities are likely not able to provide low-income CAPs funded by customer revenues.

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178. With respect to low-income assistance, [Me. Stat. tit. 35-A, § 6111-C](#) authorizes consumer-owned water utilities that also supply wastewater services to shut-off water service to customers who do not pay their wastewater bill. However, this statute requires consumer-owned water utilities to send the customer information on “available assistance programs, including programs that offer assistance in paying for wastewater or water service, programs that offer assistance in paying for other utility services or in paying for heating fuel or similar assistance programs that could provide sufficient support to the customer to allow the customer to pay the utility’s rates, fees or charges for sewer service” to customers to whom the utility sends disconnection notices.

179. Pers. comm. with Mitch Tannenbaum, General Counsel, Maine PUC (December 13, 2016).