



Maryland

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

Commission-regulated utilities	
Noncommission-regulated utilities	



Commission-Regulated Utilities

The **Maryland Public Service Commission (MPSC)** regulates how rates are set and approves rate modifications for private water and wastewater companies.¹⁸⁰ The MPSC does not regulate government-owned utilities. **Md. Code Ann., Pub. Util. § 4-201** mandates that a commission-regulated utility “shall charge just and reasonable rates for the regulated services that it renders.” **Md. Code Ann., Pub. Util. § 4-101** defines “just and reasonable rates” as rates that provide a “reasonable return on the fair value of the public service.” However, **Md. Code Ann., Pub. Util. § 4-503** expressly prohibits rate discrimination for commission-regulated utilities, stating that “for any service rendered or commodity furnished,” such a utility “may not directly or indirectly, by any means, including special rates, rebates, drawbacks, or refunds... charge, demand, or receive from a person compensation that is greater or less than from any other person under substantially similar circumstances.” MPSC has interpreted this language to mean that commission-regulated utilities cannot provide special rates or benefits to low-income customers if they are subsidized by other customers.¹⁸¹

Thus, low-income customer assistance programs (CAPs) funded by rate revenues currently appear to be prohibited for commission-regulated utilities because of how MPSC interprets the statutory prohibitions listed above.

Noncommission-Regulated Utilities

Government-owned water and wastewater utilities, including general- and special-purpose government utilities, are not regulated by the MPSC and appear to have discretion regarding rate structures and rate setting. All municipalities in the state are incorporated by charters, which provide limited local authority subject to state statutes. With respect to municipal services, **Md. Code Ann., Local Gov’t § 5-205** requires only that

State Population (2016):	6,016,447
Median Annual Household Income (2015):	\$74,551
Poverty Rate (2015):	10.0%
Typical Annual Household Water and Wastewater Expenditures (2015):	\$633
Maryland has 476 community water systems (CWS), of which 245 are privately owned and 445 serve populations of 10,000 or fewer people.	
Maryland has 174 publicly owned treatment works facilities (POTWs), of which 137 treat 1 MGD or less.	
93,510 people are served by privately owned CWS; 5,210,725 are served by government-owned CWS; and 3,116,383 are served by POTWs.	
Estimated Long-Term Water and Wastewater Infrastructure Needs:	\$13.6 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.

municipalities establish and collect fees and charges that are “reasonable.” Most counties in the state, as well as the city of Baltimore¹⁸² operate under home rule charter or code and, as such, have the authority to implement low-income CAPs subject to any limitations that may be present in individual charters.¹⁸³

Although most government-owned utilities seem to have broad authority over rates and charges, a notable exception is the Washington Suburban Sanitary Commission (WSSC), which is one of the largest water and wastewater utilities serving the Washington, D.C.

180. **Md. Code Ann., Pub. Util. § 2-112.**

181. Pers. comm. with Annette B. Garofalo, Assistant Staff Council, Maryland Public Service Commission (October 11, 2016).

182. The city of Baltimore is an independent political and geographic subdivision. It is an incorporated city with both a city charter and a home rule charter, giving Baltimore a broad political power base.

183. The city of Baltimore currently offers [customer assistance programs](#) supported by revenue derived from other customers.

region. WSSC is exempt from home rule legislation and, therefore, subject to greater oversight by the State of Maryland. In fact, the Maryland General Assembly recently enacted legislation that enables, and actually mandates, WSSC to use revenues from utility tap fees to fund a bill discount program for eligible low-income customers.