



## Minnesota

Minnesota is one of only six<sup>192</sup> states in which private water and wastewater companies are not regulated by a state utility commission. Rather, municipal water and wastewater utilities are regulated by the local government within which they operate.

Under [Minn. Const. art. XII, § 4](#), local governments in Minnesota may adopt home rule charters. According to [Minn. Stat. § 456.37](#), a home rule charter city “may charge a reasonable fee for supplying water.” A second type of city in Minnesota, a “statutory city,” operates under [Minn. Stat. § 412.321](#).<sup>193</sup> For both types of cities, as well as for counties, [Minn. Stat. § 444.075\(3\)](#), provides that rates should be “just and equitable.” Additionally, under the same statutory provision, “charges made for service rendered shall be as nearly as possible proportionate to the cost of furnishing the service.”<sup>194</sup>

In *Daryani v. Rich Prairie Sewer & Water Dist.*,<sup>195</sup> a case addressing water and wastewater rates charged to an apartment complex, the Minnesota Court of Appeals acknowledged the difficulties in rate setting. Specifically, the court made reference to “perfect equality in establishing a rate system” not being “expected, nor can quality be measured with mathematical precision.”<sup>196</sup> Instead, the court went on, the goal should only be a practical basis when establishing a rate system, “and apportionment of utility rates among different classes of users may only be roughly equal.”<sup>197</sup> As for the rate challenged in the *Daryani* case, the court stated that it would “uphold an established rate system unless it is shown by clear and convincing evidence to be in excess of statutory authority or results in unjust, unreasonable, or inequitable rates.”<sup>198</sup>

Thus, the biggest statutory challenge for utilities in Minnesota seeking to implement low-income customer assistance programs (CAPs) funded by rate revenues would be the requirement that rates be “proportionate

Commission-regulated utilities	N/A
Noncommission-regulated utilities	

<b>State Population (2016):</b>	5,519,952
<b>Median Annual Household Income (2015):</b>	\$61,492
<b>Poverty Rate (2015):</b>	11.3%
<b>Typical Annual Household Water and Wastewater Expenditures (2015):</b>	\$487
Minnesota has 967 community water systems (CWS), of which 230 are privately owned and 878 serve populations of 10,000 or fewer people.	
Minnesota has 171 publicly owned treatment works facilities (POTWs), of which 141 treat 1 MGD or less.	
43,681 people are served by privately owned CWS; 4,321,274 are served by government-owned CWS; and 3,318,877 are served by POTWs.	
<b>Estimated Long-Term Water and Wastewater Infrastructure Needs:</b>	\$9.7 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>	

to the cost of furnishing the service.”<sup>199</sup>

192. The others are Georgia, Michigan, North Dakota, South Dakota, and the District of Columbia.

193. Of the 853 cities in Minnesota, 747 are statutory cities.

194. [Minn. Stat. § 444.075\(3\)](#). The statute includes an exception for specific rate restrictions found in individual charters.

195. *Daryani v. Rich Prairie Sewer & Water Dist.*, No. A05-1200, 2006 WL 619058, at \*2 (Minn. Ct. App. Mar. 14, 2006) (unpublished opinion).

196. *Daryani*, 2006 WL 619058, at \*4.

197. *Id.*

198. *Id.* at \*2.

199. [Minn. Stat. § 444.075\(3\)](#).