Minnesota

Minnesota is one of only six 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. 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.”

In Daryani v. Rich Prairie Sewer & Water Dist., 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.” 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.” 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.”

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

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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.
197. Id.
198. Id. at *2.
199. Minn. Stat. § 444.075(3).