Mississippi

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

Commission-Regulated Utilities

The Mississippi Public Service Commission (MPSC) regulates private water and wastewater companies in the state of Mississippi under Miss. Code Ann. § 77-3-5 and § 77-3-41. The MPSC does not regulate municipal-owned utilities.

The MPSC uses criteria outlined in Miss. Code Ann. § 77-3-43 to determine the rate base for utilities, which must be “fair” to both the utility and the consumer. Additionally, in arriving at a rate base, the commission shall give due consideration to “any other elements deemed by the commission to be material in determining the rate base for rate-making purposes.” Commission-regulated utilities must file rate cases with the MPSC before changing their rates. Furthermore, rates made by the MPSC cannot exceed what is “just and reasonable.” In White Cypress Lakes Water v. Miss. Public Service Commission, the Mississippi Supreme Court held, “[a] fair rate is one which, under prudent and economical management, is just and reasonable to both the public and to the utility…(t)he public is entitled to demand that no more be exacted from the ratepayers than the services are reasonably worth.”

Commission-regulated utilities would, thus, likely need to gain MPSC approval before changing their rate structures and policies to fund a low-income customer assistance program (CAP). Furthermore, the requirement that rates charged be for what a utility’s “services are reasonably worth” could create the potential for a legal challenge to a CAP that provides varying rates.

Noncommission-Regulated Utilities

Mississippi’s municipal governments have the right to regulate and set rates for their water and wastewater utilities under Miss. Code Ann. § 21-27-7. The Mississippi Attorney General held in a 1992 opinion that a “(m)unicipality may fix water rates as flat monthly rates for all consumers residing in the municipality and service area or a municipality may charge all consumers a certain amount per gallon of water used…[but] a public utility cannot discriminate in setting its rates among similarly situated users for the same type of service.” Furthermore, under state law, municipalities are prohibited from furnishing free utility services to “any private person, firm, corporation, or
association.”

The aforementioned prohibitions could create legal challenges for a government-owned utility seeking to implement a low-income CAP funded by rate revenues.

206. Miss. Code Ann. §21-27-27. Municipalities are allowed to furnish free utility services to “the municipality or any agency or department thereof, to any public school, or to any hospital or benevolent institution located within such municipality, including county, city, and community fairs.” Id.