

Nevada

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

Commission-Regulated Utilities

The Nevada Public Utilities Commission (Nevada PUC) regulates the rates of private water and wastewater companies.²²⁶ The Nevada PUC does not regulate government-owned utilities,²²⁷ quasi-governmental bodies, or political subdivisions of the state.²²⁸

Pursuant to Nevada Rev. Stat. § 704, the Nevada PUC must approve the rate schedules of the utilities that it regulates. Further, under Nev. Rev. Stat. § 704.120.1, the Nevada PUC has the authority to fix or order changes to rate schedules that it finds to be “unjust, unreasonable, or unjustly discriminatory.”²²⁹ However, Nev. Rev. Stat. § 704.110.14(b) states the Nevada PUC can authorize a “reduced rate” for low-income residential customers, after a hearing.

Thus, commission-regulated utilities are expressly permitted by statute to provide low-income customer assistance programs (CAPs) funded by rate revenues in the form of “reduced rates.”

Noncommission-Regulated Utilities

The Nevada PUC does not regulate utilities run by cities and counties, or those operated by water authorities and districts. The majority of cities in Nevada operate pursuant to municipal charters, and the remainder of cities and counties are subject to general law.²³⁰ In addition, Nevada has many unincorporated towns. Although they may have a local board, unincorporated towns receive most services and governance from their

226. The Nevada PUC also regulates the service territories (but not the rates or service quality) of water and wastewater utilities that are under the control of a noninvestor, private governing body, such as a co-op or homeowner’s association.

227. The Nevada PUC also regulates the service territories (but not the rates or service quality) of water and wastewater utilities that are under the control of a noninvestor, private governing body, such as a co-op or homeowner’s association.

228. Including the Southern Nevada Water Authority, the Las Vegas Valley Water District, and the Truckee Meadows Water Authority.

229. Nevada Power Co. v. Eighth Judicial Dist. Court of Nevada ex rel. County of Clark, 102 P.3d 578 (Nev. 2004) (holding that the only limit on the authority of the Nevada PUC to regulate utility rates is the legislative directive that rates charged for services provided by a public utility must be just and reasonable and that it is unlawful for a public utility to charge an unjust or unreasonable rate).

230. Local government in Nevada consists of 16 county governments and 19 incorporated city governments. Twelve of the 19 cities in the state operate pursuant to municipal charter.

Commission-regulated utilities



Noncommission-regulated utilities



| | |
|---|---------------|
| State Population (2016): | 2,940,058 |
| Median Annual Household Income (2015): | \$51,847 |
| Poverty Rate (2015): | 15.5% |
| Typical Annual Household Water and Wastewater Expenditures (2015): | \$634 |
| Nevada has 213 community water systems (CWS), of which 112 are privately owned and 199 serve populations of 10,000 or fewer people. | |
| Nevada has 50 publicly owned treatment works facilities (POTWs), of which 35 treat 1 MGD or less. | |
| 74,220 people are served by privately owned CWS; 2,605,950 are served by government-owned CWS; and 2,972,245 are served by POTWs. | |
| Estimated Long-Term Water and Wastewater Infrastructure Needs: | \$8.0 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.

respective counties. Several statutes, including Nev. Rev. Stat. § 710.540 and § 244.366, authorize the establishment and operation of water and wastewater utilities by various government entities, and include general rate setting language. Additionally, Nev. Rev. Stat. § 244.3651 gives authority to the board of county commissioners of counties whose population is greater than 100,000 but less than 700,000 to establish by ordinance a program to provide financial assistance for customers in connecting to a public water or wastewater utility or disconnecting from a private water or wastewater company. The statute provides that the board “may accept gifts, grants and other sources of money” or issue bonds and other securities to finance such a program, implying but not explicitly mentioning that utilities may use rate revenues. Finally, the

statute states that the board “may set forth conditions or limitations on any financial assistance provided pursuant to the program.”²³¹ The addition of this *express* financial authorization for these specific counties suggests that low-income CAPs that would not fall under this provision may be deemed unlawful for cities and counties that operate under general law.²³²

In sum, for cities operating pursuant to municipal charters, the ability to implement low-income CAPs funded by rate revenues could be limited or specifically permitted by such charters. Cities and counties operating under general law seeking to implement rate-funded CAPs could potentially face challenges based on a lack of express authority found in the statutes. Additionally, some government-owned utilities in Nevada, such as the Las Vegas Valley Water District and the Truckee Meadows Water Authority, were established through special acts of the state legislature.²³³ The ability of these noncommission-regulated utilities to provide low-income CAPs funded by rate revenues is therefore subject to their enabling legislation.²³⁴

The U.S. EPA’s 2016 compendium *Drinking Water and Wastewater Utility Customer Assistance Programs*²³⁵ highlights two government-owned water and wastewater utilities, in the city of Reno and the city of Henderson, that offer low-income CAPs, which appear to be funded by rate revenues.²³⁶

231. Nev. Rev. Stat. § 244.3651.

232. See *Galloway v. Truesdell*, 422 P.2d 237, 246 (Nev. 1967) (holding that the maxim *expressio unius est exclusio alterius*, the expression of one thing is the exclusion of another, is applied in Nevada).

233. For example, the *Las Vegas Valley Water District Act of 1947* establishes and provides regulations for the Las Vegas Valley Water District (LVVWD) with respect to rates and service.

234. For example, *Section 16 of the LVVWD Act of 1947* allows the LVVWD Board of Directors to fix reasonable rates that are sufficient to pay operating and maintenance expenses, general district expenses, principal and interest on all outstanding bonds, and any payments required to be made into any sinking fund for such bonds. LVVWD has interpreted this language to mean that it can set rates to cover only the cost of service; it therefore does not allow for cross-subsidization.

235. U.S. EPA, “*Drinking Water and Wastewater Utility Customer Assistance Programs*” (2016).

236. Both cities highlighted in the compendium operate pursuant to municipal charters.