





# New Hampshire

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

Commission-regulated utilities	
Noncommission-regulated utilities	

## Commission-Regulated Utilities

The [New Hampshire Public Utilities Commission](#) (New Hampshire PUC) regulates private water and wastewater companies. The New Hampshire PUC does not regulate government-owned utilities.<sup>237</sup>

With respect to commission-regulated utilities, [N.H. Rev. Stat. Ann. § 374:2](#) mandates that rates shall be “just and reasonable” and “not more than is allowed by law or by order of the public utilities commission.” [N.H. Rev. Stat. Ann. § 378:10](#) states that commission-regulated utilities shall not “give any undue or unreasonable preference or advantage to any person or corporation, or to any locality, or to any particular description of service . . . or subject any particular person or corporation or locality, or any particular description of service, to any undue or unreasonable prejudice or disadvantage.”

Despite the statutory limitations articulated above, in [Appeal of McCool](#),<sup>238</sup> the court found that a “utility may establish different rates for various classes of consumers when circumstances render any lack of uniformity reasonable.” In addition, most energy utilities in New Hampshire, which are all regulated by the New Hampshire PUC, have a separate, discounted rate schedule for low-income customers. Although there is express statutory authorization for low-income rates for electric utilities, there is no similar authorization for natural gas or water utilities. However, many natural gas utilities also have low-income rate schedules.

Thus, in light of the fact that state statutes expressly authorize commission-regulated *electric* utilities to have a separate, discounted rate schedule for low-income customers, and more notably that commission-regulated *natural gas* utilities are utilizing low-income rates without express statutory authorization, it appears that commission-regulated water and wastewater utilities

237. However, if a municipal-owned utility serves customers outside of its municipal boundaries and wishes to charge those customers a higher rate than it charges to customers inside municipal boundaries, the utility must obtain approval from the New Hampshire PUC.

238. Appeal of McCool, 514 A.2d 501, 513 (N.H. 1986).

<b>State Population (2016):</b>	1,334,795
<b>Median Annual Household Income (2015):</b>	\$66,779
<b>Poverty Rate (2015):</b>	8.9%
<b>Typical Annual Household Water and Wastewater Expenditures:</b>	N/R
New Hampshire has 699 community water systems (CWS), of which 555 are privately owned and 681 serve populations of 10,000 or fewer people.	
New Hampshire has 88 publicly owned treatment works facilities (POTWs), of which 70 treat 1 MGD or less.	
206,654 people are served by privately owned CWS; 663,084 are served by government-owned CWS; and 603,146 are served by POTWs.	
<b>Estimated Long-Term Water and Wastewater Infrastructure Needs:</b>	\$2.5 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.*

may be allowed to implement low-income customer assistance programs (CAPs) funded by rate revenues within the current statutory framework, as well.

## Noncommission-Regulated Utilities

The New Hampshire PUC does not regulate municipal-owned water and wastewater utilities. New Hampshire largely follows Dillon’s Rule, which means the authority of cities and towns must be specifically designated or provided for by the state legislature through state statutes. [N.H. Rev. Stat. Ann. ch. 38](#) provides cities, towns, and other government bodies with the authority to establish water and/or wastewater utility districts. [N.H. Rev. Stat. Ann. § 38:28](#) states that district governing bodies may establish water rates

to acquire, construct, maintain, repair, or improve a utility, and further, that the “amount of such rates may be based upon the consumption of water on the premises connected to the water system, or the number of persons served on the premises, or upon some *other equitable basis*.” In addition, New Hampshire has a unique state law, [N.H. Rev. Stat. Ann. § 165:1](#), that requires cities and towns to provide financial assistance and aid to residents who are not able to pay for basic living expenses, such as rent, mortgage payments, food, transportation, medical prescriptions, clothing, and *utility bills*.

This statutory language appears to provide relatively broad authority to government-owned utilities to implement low-income CAPs funded by rate revenues. It appears that several municipalities have used this general authority to provide assistance to low-income customers and others in need. A recent [rate survey](#) by the New Hampshire Department of Environmental Services<sup>239</sup> found that many utilities offer assistance programs for low-income and elderly customers.<sup>240</sup>

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239. “2015 Water Rate Survey,” New Hampshire Department of Environmental Services (2015).

240. For example, the [City of Manchester](#) offers a 50 percent discount to low-income, disabled, and elderly customers. To qualify for the program, these customers must meet criteria consistent with that established by the City of Manchester for property tax exemption.