New Jersey

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

Commission-Regulated Utilities

The New Jersey Board of Public Utilities (BPU) regulates the rates and services of private water and wastewater companies to “ensure safe, adequate, and proper utility services at reasonable rates for customers in New Jersey.” With respect to utilities regulated by BPU, N.J. Rev. Stat. § 48:3-1 mandates that no commission-regulated utility “shall make, impose or exact any unjust or unreasonable, unjustly discriminatory or unduly preferential individual or joint rate,” nor may any commission-regulated utility “adopt or impose any unjust or unreasonable classification in the making or as the basis of any individual or joint rate.” These rules on rates have two statutory exceptions, which apply only to certain senior citizen cooperative associations and to employees of natural gas and electric utilities.

Based on personal communications with BPU, the lack of a statutory exception for commission-regulated water and wastewater utilities has been interpreted to mean that these companies are unable to provide low-income customer assistance programs (CAPs) funded by rate revenues. Although several commission-regulated utilities, including New Jersey American Water and SUEZ Water, offer low-income CAPs, these programs are funded through non-rate revenues, including voluntary contributions.

Noncommission-Regulated Utilities

BPU does not regulate the rates of government-owned water and wastewater utilities in New Jersey. New Jersey is a home rule state, meaning that local governments have relatively broad authority to establish local regulations subject to limitations included in state statutes. N.J. Rev. Stat. § 40:14B-2 allows counties and municipalities to operate waterworks and wastewater facilities and to charge for the services they provide through the establishment of a municipal authority. Additionally, under N.J. Rev. Stat. § 40:14B-21 and § 40:14B-22, municipal water and wastewater authorities are authorized to charge and collect rates for services which “shall as nearly as the municipal authority shall
deem practicable and equitable be _uniform_ throughout the district for the same type, class and amount of use, products or services...” except as otherwise permitted by N.J. Rev. Stat. § 40:14A-8.2.

The abovementioned exception allows municipal and county authorities to establish reduced rates or total abatements for senior and/or disabled citizens meeting certain income requirements. Additionally, N.J. Rev. Stat. § 40:14A-8.3 requires county, regional, and municipal wastewater authorities to establish a 50 percent reduction in connection or tapping fees for public housing authorities and non-profit organizations that construct affordable housing pursuant to Section 8 rules.

Therefore, government-owned water and wastewater utilities that do not operate under home rule charters may be limited to only providing CAPs to elderly and disabled customers who meet certain income requirements. Alternatively, if local governments operating under municipal charters seek to implement low-income CAPs funded by rate revenues, such programs could be subject to challenges under the “uniformity” clause or under any limitations found in individual charters. In addition, as of October 2016, the New Jersey state legislature is considering a bill that would expand the state’s Lifeline Credit Program and the Tenants’ Lifeline Assistance Program to provide assistance for water bills. Under existing law, these programs provide a $225 benefit only on gas and electric utility bills to eligible customers who are participating in state or federal assistance programs.

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