
UTILITY FEES, RATES AND COLLECTIONS



COLORADO

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INTRODUCTION

A drinking water and wastewater utility must consider a variety of needs when deciding how to generate the revenue necessary for operations, maintenance, and capital improvements. Generating sufficient revenue must be carefully balanced with affordability. The promotion of water conservation must be balanced by the need for stable revenue. Fees charged to new customers connecting to the system must balance offsetting the cost of building additional capacity and keeping fees to a level that does not deter growth. This publication discusses fees, rates, rate structures, customer classes, affordability, and handling delinquent accounts.

Colorado Revised Statutes (CRS) provide many options to local governments and other community organizations to allow them to raise revenues for funding improvements to water and wastewater systems. This publication describes commonly used mechanisms local utilities can use to generate revenues to meet their system needs. It is not intended as legal advice, and should not be solely relied on when evaluating revenue options or other utility financial policies. For more specific guidance, local officials should consult the Revised Statutes and their attorney.

FEES

Fees are fixed charges to users of a system in exchange for some specific service or privilege provided by the system. While a “tap” or “connection” fee is probably the most common fee, a utility may charge a variety of fees to recover a broad range of other costs, including the following:

Meter testing/calibration fee	Meter size change fee
Meter turn off/on charge	Meter re-read charge
Meter removal charge	Sale of plan/specifications/blueprint copies
New account charge	Emergency water turn-on/off charge
Returned check charge/penalty	Fire protection charge
Appointment/field visit charge	Illegal turn-on penalty
Water tap testing	Illegal water use penalty
Bulk water sales - fire hydrant/water dock	Turn-off/on at main charge
Sales of materials	Delinquent charge

Tap and Plant Investment Fees

Many different terms are used to describe the fee (or connection charge) required at the time a customer applies to connect their property to the public system. These one-time fees generally are considered non-operating revenue. In Colorado, the term tap fee is often used to refer to the cost of constructing the physical connection to the main. Plant investment fees (or system development charges) are fees collected to help finance capital improvements. These fees help assign growth-related capacity costs to new instead of existing customers.

Making these fees fair and rational is important for legal and public perception reasons. Since these fees are dependent on real estate activity, financial planners should be sensitive to the

risk of this revenue not being available in times of diminished economic activity. Some utilities waive tap fees or other system charges as economic development incentives or for other reasons like subsidized utility service to low-income housing, but loan agreements or bond covenants may prohibit such practices for others.

Land Development Charges

Per **§29-1-801 et seq. CRS**, land development charges may be charged by a local government as a condition of approval of a land development plan. These charges can be used for capital expenditures, like the extension of water or wastewater service to a new development, and must be deposited in an interest-bearing account, accounted for separately from other revenues, and not commingled with other funds.

Availability of Service Fees

Special districts, created pursuant to Title 32, Article I, have the authority to charge availability of service fees to repay water and/or sewer debt (**§32-1-1006 CRS**). This specific provision allows special districts to service debt according to a prescribed formula where the revenue generated by the fee cannot exceed 50% of the average usage charge for that system. In addition, the residential property that is assessed for the fee must be within 100 feet of the water or sewer line to which it will be connected.

Property Taxes

Local governments may ask voters to authorize the collection of property tax to pay debt obligations. Additionally, many special districts ask voters for authorization to collect property tax for the payment of operating expenses.

The 1992 TABOR amendment to the state constitution places various limits on the revenues that local governments can collect and spend, and local officials should consult with qualified legal and financial advisors when considering new taxes.

Readiness to Serve Fees

Used by municipal and special district systems, a readiness to serve fee bills customers whose property remains connected to a central water/sewer system even though the property may be vacant and unused.

Fire Protection Fees

The oversizing of a water system to provide fire protection increases capital and annual operations and maintenance costs. These costs are often recovered through a property tax, since it can be argued that the system provides greater benefits to more valuable properties and in turn collects more revenue from these properties. Alternatively, larger water utilities assess a fire protection charge directly to the local government that provides firefighting services. This charge is often based on the number of hydrants the water utility serves.

RATES

The Colorado Revised Statutes generally allow local governments to create rate systems to meet their individual needs.

Setting rates for a water or sewer utility should be a process of allocating expenses (operations, maintenance, debt service, repair/replacement, capital improvements, etc.) to customer classes (residential, commercial, industrial, etc.). In this process, it is often helpful to separate recurring and/or predictable fixed costs, from variable costs that may result from annual usage variations, unexpected repairs, etc. A metered system makes it easier to bill customers for their demand on the system and all water systems with at least 600 taps must install meters according to **§37-97-101 CRS**.

Many consultants offer rate-setting services. They can assist with the complicated financial modeling and accounting implications of rate setting. Many Colorado utilities request assistance from the Colorado Rural Water Association (<http://www.crwa.net/>) or the Rural Community Assistance Corporation (<https://www.rcac.org/>). The Environmental Finance Center Network (<https://efcnetwork.org/>) offers excellent publications, virtual training, and technical assistance on rate setting and a variety of other issues. Department of Local Affairs staff is also available to assist local governments with rate setting and financial planning.

Types of Rate Structures

There is a variety of rate structures that drinking water and wastewater providers utilize to generate the revenue needed to cover operating expenses, plan for future infrastructure projects, and repay existing debt. Some rate structures may also encourage water conservation or give water customers a break in heavily agricultural areas. Rate structures may be as simple as a flat rate, or as complicated as complex block rate structures which, in addition to routine operation and maintenance costs, may take into account capital replacement costs, pressure differentials, number of fixture units per customer, source of supply fees, seasonal fluctuations in usage, water conservation, customers' past consumption patterns, etc. Some of the most common rate structures described by the EPA¹ are listed below.

Flat Rate: Most frequently, flat rates are used by wastewater systems and small drinking water systems without meters. Customers are charged the same rate regardless of the amount of water used or wastewater produced. Some flat rate structures use measures like the number of plumbing fixtures, number of rooms per structure served, or size of lawn to be watered, to charge more to customers with heavier system utilization.

Uniform Rate: This rate structure sets a constant rate per unit of water, which does not change with the amount of consumption. For example, a customer may be charged \$1 per 1,000 gallons for usage of any amount.

Declining Block Rate: The customer is charged less per unit of water as their usage moves into higher blocks. For example, usage between 5,000 and 10,000 gallons may cost \$5.00 per 1,000 gallons and usage over 10,000 gallons costs \$2.50 per 1,000 gallons. This rate structure does not promote water conservation and is best suited for regions where water is plentiful.

Increasing Block Rate: Provides a higher per unit charge as more water is used. For example, usage between 5,000 and 10,000 gallons may cost \$2.50 per 1,000 gallons

¹ *Understanding Your Water Bill.* (n.d.). Retrieved from United State Environmental Protection Agency: <https://www.epa.gov/watersense/understanding-your-water-bill>

and usage over 10,000 gallons costs \$5.00 per 1,000 gallons. This structure encourages water conservation by making it more expensive to use more water.

Base Rate: Metered systems may or may not change a base rate, which is a fixed amount charged to all customers within the same customer class, in addition to the usage-based charges described above. A base rate may include a certain amount of water use and also provides a certain amount of revenue stability for systems in areas where water use may fluctuate seasonally or based on rainfall. A utility may also choose to incorporate debt service repayment into the base rate.

Drought Rates/Surcharges: Drought conditions can disrupt a utility's financial plans and may require surcharges, rationing, or other measures to ensure adequate revenue for the system. During periods of drought, usage rates may be increased to promote water conservation. However, with successful conservation measures, a utility may struggle with reduced revenue. Surcharges are generally imposed to fund a certain need and are in effect for a defined period of time. Some utilities may try to avoid drought surcharges by establishing a rate stabilization fund, which might be funded through a surcharge during non-drought years. This may diminish the impact on customers that can result from water conservation measures.

Customer Classes

When establishing a rate structure, a utility should consider what types of customers they serve and determine if the customers should be charged the same fees for service. In-boundary versus out-of-boundary customers, costs of service, demand characteristics, and construction material or tap size are all factors that can make it more expensive to serve some customers and may warrant charging them accordingly.

*In- Versus Out-of-Boundary Customers*²: Many communities charge customers outside of municipal or district boundaries more than what they charge customers that are within these boundaries. There are various reasons a utility may impose this price differential. One rationale is that in-boundary customers were usually the first ones on the system and over time the overall financial burden related to system expansion or replacement is felt most heavily by in-boundary customers. Additionally, for utilities that support operations or debt service with property taxes, these taxes are only paid by in-boundary customers and a higher rate for out-of-boundary customers ensures these customers are paying their fair share.

Cost of Service: A number of factors are important to consider when differentiating the cost of service among customer classes. Many will argue that existing customers should not have to pay for costly new facilities that are required to accommodate growth. Some rate structures attempt to match facilities of a certain age with a certain class of customers, and thereby justify a cost differential. The location of customers in relation to each other or to the treatment plant can be a factor. The use of "pressure zones" or "districts" are also ways to delineate different rate areas.

² *Outside Rates: Why Are They Higher?* (2021, December 9). Retrieved from Environmental Finance Center: <https://efc.sog.unc.edu/outside-rates-why-are-they-higher/>

Demand Characteristics: Another factor that can differentiate one class from another is the demand characteristics of these classes. Customers that place high peak demands on a system can be more costly to serve, especially if they cause the utility to need increased treatment or pipeline capacity. The ratio of maximum hour usage to average day usage is one option for establishing the cost differential, as this ratio varies significantly between a residential customer and an industrial customer, for example.

Construction Material or Tap Size: Another element that utilities use to differentiate costs between customer groups is the construction material or size of the service mains. For example, under certain conditions, some types of pipe (such as cast iron, tile or asbestos) may require more maintenance than other types (such as PVC). Similarly, large volume commercial or institutional customers may argue that they should not bear the costs associated with smaller distribution lines serving primarily residential or other small volume customers.

Some examples of classes of customers that rate systems define include:

- Residential
- Commercial (broken down by category, if appropriate)
- Industrial (broken down by category, if appropriate)
- Institutional (colleges, schools, hospitals, etc.)
- Other governmental utilities (each utility is usually considered separately)
- In-Boundary/Out-of-Boundary customers
- Fire protection (public and private)
- Other classes as deemed appropriate by local cost of service circumstances

Additional factors that define functional user classes include:

- Treatment requirements (i.e., volume, BOD, TSS, ammonia, phosphorus, etc.)
- Transmission - for customers that are served by a lift or pumping station
- Collection - for customers in low density areas
- Disposal
- Billing and collection - for hard to bill customers
- Customer service
- Accounting and finance
- Administration

Measures of Rate Burden

When setting rates, a utility should consider the characteristics of the local economy and the ability of customers to pay their utility bills. The perpetual challenge of setting rates is balancing revenue needs of the system with the customer's ability to pay.

A common indicator of local economic conditions is the median household income (MHI) that is generated every ten years by the U.S. Census Bureau. The American Community Survey is a good data source to use between decennial censuses. The American Community Survey releases data annually in both one-year and five-year rolling averages. Data from both the

Census and the American Community Survey are presented at the state, county, place (or census designated place), tract, and block group levels.

A common measure of rate burden is the comparison of total annual rates (monthly average utility bill x 12) divided by the MHI of the community. A long-standing affordability threshold established by the EPA suggests that water costs that exceed 2.5% or wastewater costs that exceed 2% of community MHI are unaffordable. While this can be a useful benchmark, it is useful to remember that the ratio of rate to MHI is only one way of assessing burden on system customers as a whole. This ratio only considers the impact on household at the median income, and does not consider the rate burden for the 50% of customers with incomes below the median. Furthermore, it does not account for variation in other costs that may burden a household, including energy and housing costs.

Other indicators to consider when assessing rate burden include ^{2, 3}:

- Comparison of rates to minimum wage
- Housing costs
- Unemployment rate or a comparison of population and jobs over time
- Closure of major regional employers
- Percentage of delinquent accounts
- Percentage of community members living at or below the poverty level or qualifying for assistance programs
- Presence of disproportionately impacted communities

These indicators can inform how a utility sets rates. For example, many resort communities in Colorado have large disparities in wealth and lower income households often struggle with affording the region's high-cost housing. A utility serving such a community may choose to offset residential utility bills by charging commercial customers more. Another option includes establishing a customer assistance program, which can provide much needed relief to a community's lower income households.

COLLECTIONS

The Colorado Revised Statutes establish specific limits on allowable penalties for overdue utility charges. For local governments, these procedures are detailed in **§29-1-1102 CRS**. No delinquency charge can be imposed unless five days have passed since the due date. Delinquency charges cannot exceed \$15.00 or five percent of what is owed (excluding earlier penalties) per month. Interest can be charged, but may not exceed 25% of the amount due.

² Stratus Consulting. (2013). *Affordability Assessment Tool for Federal Water Mandates*. Retrieved from American Water Works Association: <https://www.awwa.org/Portals/0/AWWA/ETS/Resources/AffordabilityAssessmentTool.pdf>

³ R. Raucher, PhD., J. Clements, E. Rothstein, J. Mastracchio, Z. Green. (2019, April 17). *Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector*. Retrieved from American Water Works Association: <https://www.awwa.org/Portals/0/AWWA/Government/DevelopingNewFrameworkForAffordabilityReport.pdf>

In developing and implementing a collection process, consistency and impartiality are key principles to follow. Properly adopted ordinances/resolutions authorizing the governing board of the system to take action against nonpaying customers are necessary.

A local government may choose to use a private collection agency to pursue delinquent accounts. Municipalities may also elect to certify “delinquent, charges, assessments, or taxes” to the county treasurer pursuant to **§31-20-105 CRS**. The county treasurer will then attempt to collect these overdue amounts with the annual property tax bill to the property owner. This method is also available to Colorado special districts under **§32-1-1101(1)(e) CRS**, though the delinquent accounts must exceed \$150 and be at least 6 months overdue.

APPENDIX A
STATUTORY PROVISIONS RELATING TO FEES, RATES AND COLLECTIONS

GENERAL

29-1-1102 CRS Prohibits local government delinquency charge imposition within 5 days after the scheduled due date, and prohibits charging a penalty on an outstanding penalty amount. Also limits delinquency charges to either \$15 or up to 5% of the amount due.

MUNICIPALITIES

31-15-709(1)(a) CRS Municipalities may assess the costs of water and sewer line construction against adjacent lots or lands proportionate to the frontage on the street in which the line is to be laid.

31-15-709(1)(a) CRS Municipalities may impose a special assessment of tax to pay for the construction of a public sewer system.

31-20-105 CRS Municipalities may certify to the County Treasurer overdue water and sewer fees to be collected annually on the tax bill to the property owner.

31-35-402(1)(f) CRS Allows municipalities to set rates and fees, minimum charges, tap fee charges, disconnection fees, reconnection fees, delinquency charges (1% per month), collection of rates, fees, etc. (in advance or otherwise) for service provided, and issue of revenue bonds.

31-35-617 CRS Municipalities may not terminate sewer use privileges unless the user is outside the municipal limits. Provides for delinquent sewer charges to be collected by the County Treasurer as if they were taxes.

31-35-701 CRS Implementation and collection of "just, reasonable, and necessary sewer rates" to system users outside the municipal limits by ordinance.

SPECIAL DISTRICTS

32-1-1001(1)(j) CRS Allows special districts to set rates and fees, and collect liens as foreclosure of mechanics' liens.

32-1-1001(1)(k) CRS Allows special districts to furnish services and facilities outside district boundaries, and establish appropriate rates and fees for those services.

32-1-1006(1)(b)(l) CRS Allows establishment of different rates, fees, and mill levy within a district based upon different levels of service.

- 32-1-1006(1)(h)(l) CRS Allows availability of service fees on certain vacant land for debt service.
- 32-1-1101(1)(e) CRS Allows delinquent rates and fees to be collected by the County Treasurer as if they were taxes.
- 32-4-522(2)(a) CRS Calls for rates and fees to be uniform among customers classes, and based upon some measurable consumption factors.

COUNTIES

- 30-20-402(1)(b) CRS Allows operation and maintenance of water and sewer facilities.