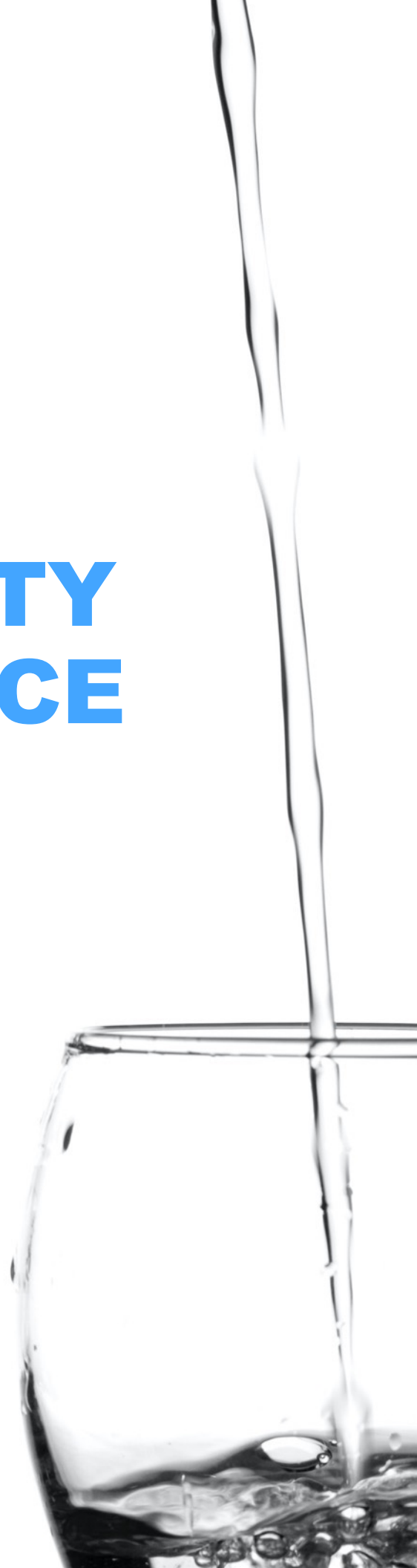




# **WATER AFFORDABILITY & GOVERNANCE IN OHIO**

**SURVEY OF FOUR WATER UTILITIES**



# WATER AFFORDABILITY & GOVERNANCE IN OHIO: SURVEY OF FOUR WATER UTILITIES

Water affordability has become a salient issue across the United States, with many Americans struggling to pay their increasing water and sewer rates.<sup>1</sup> Water and sewer rates have risen at a rapidly increasing pace nationwide, outstripping the consumer price index and wage growth over the past decade.<sup>2</sup> Aging infrastructure and the need to invest in water system upgrades and climate adaptation are key drivers of this problem. Other factors include the cost of updating water treatment systems, especially in the face of emerging contaminants, as well as fluctuating population patterns, which impacts the size of the consumer base and cost recovery.

In its most recent drinking water needs assessment, the U.S. Environmental Protection Agency (EPA) estimated that Ohio needs \$13.41 billion over 20 years to upgrade its water infrastructure just to comply with federal safety regulations. As Ohio communities have continued to face down water infrastructure challenges with limited federal support, costs have increasingly been passed on to residents, often inequitably. Underlying these challenges is a decrease in federal investment in water and sewer infrastructure – from 63% in 1977 to 9% in 2014 – despite ballooning costs. This decline in federal investment has placed the financial burden of maintenance, replacement, and adaptation of such infrastructure on states and municipalities. As a result, ratepayers are seeing their water bills climb, often faster than wages.

In 2021, the U.S. Congress passed a historic infrastructure investment package that contains approximately \$50 billion for water infrastructure. While this much-needed federal

investment is an important step in addressing our backlog of water infrastructure needs, state and local decision makers must take care to understand and address water affordability and governance challenges to optimize new funding and achieve more equitable access to safe, clean, affordable water service for all Ohioans.

This report attempts to offer a snapshot of drinking water affordability in Ohio across different water system governance models, with the goal of daylighting barriers and opportunities to prioritize affordability in water infrastructure investment and implementation efforts. The following summary of findings collates insights from a survey of four water utilities across Ohio, with a focus on governance and water service affordability. This builds on earlier original statewide research, *Water & Sewer Affordability in Ohio: Assessment & Opportunities for State Policy*, a 2019 report commissioned by the Alliance for the Great Lakes and Ohio Environmental Council.

## BACKGROUND

In recent years, several Ohio leaders have expressed concern about water affordability, and a bipartisan group of policymakers have sought solutions to ensure water access for the state's economically vulnerable communities. In response, the Alliance for the Great Lakes and the Ohio Environmental Council commissioned a study in 2019 to assess the affordability of basic drinking water and sewer utility service for low-income households in the state of Ohio. The study was carried out by Manuel P. Teodoro, PhD, principal at EJ Metrics and associate professor at the La Follette School of Public

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1. <https://www.theguardian.com/us-news/2020/jun/23/millions-of-americans-cant-afford-water-bills-rise>  
2. <https://www.osti.gov/biblio/1377851>

Affairs at the University of Wisconsin – Madison. Dr. Teodoro is a nationally recognized expert in analyzing utility rate equity and affordability.

The study, *Water & Sewer Affordability in Ohio: Assessment & Opportunities for State Policy*, found that in nearly 80% of Ohio communities, a month of basic water and sewer service requires more than eight hours of labor at minimum wage.<sup>3</sup> In about 45% of Ohio communities, a household at the 20th income percentile must pay 10.6% of its disposable income for basic water and sewer service, compared to the 4% of household income that was cited as a standard for affordability.<sup>4</sup> Additionally, while the study found a strong correlation between household affordability and income inequality, affordability challenges in Ohio were not correlated to race, nor were they specific to urban, suburban, or rural communities.

Among other findings and recommendations, the 2019 study highlighted 1) the need to consider affordability in water and sewer rate setting, and 2) opportunities for and potential impact of greater public participation in the process. To better understand how these issues play out in Ohio communities, the Alliance for the Great Lakes and the Ohio Environmental Council conducted a review of four water utilities across the state, with guidance and support from Dr. Teodoro. The four community water systems were selected to include a mix of urban and rural, public- and investor-owned, and small and large utilities.

## RESEARCH SCOPE & METHODS

The research summarized in this report set out to explore the degree to which water utilities consider affordability in rate-setting and to identify windows of opportunity for impacting affordability outcomes in Ohio water utilities through public participation and civic engagement.

The utilities below were intentionally selected to represent geographic diversity (urban and rural utilities), ownership diversity (public- and investor-owned utilities), and size diversity (small and large utilities). The following four communities and water systems were reviewed in this analysis:

- 1. Gallia Rural Water Association (GRWA):** A private, nonprofit, rural water association in the Appalachian region of southeast Ohio.
- 2. Cleveland Water Department (CWD) and Northeast Ohio Regional Sewer District (NEORS):** Publicly owned and managed, CWD is operated by the city of Cleveland's Department of Public Utilities (DPU), while NEORS is a regional sewer district serving 62 communities, including Cleveland.
- 3. Toledo Department of Public Utilities (Toledo):** A regionalized water system that operates as a special public district serving multiple municipalities.
- 4. Aqua Ohio Water and Wastewater (Aqua Ohio):** Ohio's largest private, investor-owned water and wastewater utility, which serves 19 counties and is subject to oversight and regulation by the Public Utilities Commission of Ohio (PUCO).

Our research team collated data from various sources, including the official websites of the utilities, relevant statutes and regulations, recent reporting, and reports filed with regulators – PUCO, the Ohio Environmental Protection Agency (OEPA) and the EPA. Additional sources include semi-structured interviews with utility staff; a mix of primary sources, including minutes of town and city council meetings; water rate studies conducted by utilities; public documents such as financial reports; annual reports; and tax filings, as well as internal documents obtained through public records requests. While members of our research team secured interviews with some utility staff and other key stakeholders, access to interviews was inconsistent across the four utilities.

3. <https://greatlakes.org/water-affordability-ohio-report/>.

4. <https://www.theguardian.com/us-news/2020/jun/23/millions-of-americans-cant-afford-water-bills-rise>.

# GALLIA RURAL WATER ASSOCIATION

## BACKGROUND

GRWA was established in 1970, with the most recent system upgrades occurring in 1995. It is a private, nonprofit rural water system serving people across 19 townships and five counties. Most of these townships are located within Gallia County; however, water lines also extend into Meigs, Vinton, Lawrence, and Jackson counties. The system includes approximately 10,200 taps and 700 miles of water lines. GRWA serves residential, commercial and industrial customers. Most of their customers are residential; however, they do have 162 commercial and four industrial customers. These counties are, on average, roughly 4% people of color. The average median household income for these counties is \$43,506, and approximately 19% of the population is below the federal poverty line.

GRWA's water treatment capacity is 4.2 million gallons per day. It has an average daily flow of 1.8 million gallons, with a water loss percentage of 17%. GRWA has an "unconditioned license" to operate their water system, which means that their license is not under a condition with the Ohio EPA due to a compliance issue. GRWA's water comes from the Ohio River Valley Aquifer through two specific wells. One well field is

highly susceptible to contamination. The other well field is moderately susceptible to contamination and has several potential contaminant sources.

## OVERVIEW OF WATER RATES & RATE-SETTING

The estimated average monthly water bill for a household of four to five people is \$54.50. In addition to water bills, customers must pay for any installation costs. GRWA has a minimum monthly bill of \$22.00. GRWA bases their rate system on a declining block rate – charging less as a customer uses more water. There is a \$450 membership fee that is billed to customers one time.

GRWA is governed by a board of directors who are elected by the membership of the water system. Every customer is a member of the water system. The water system is managed by Brent Bolin, who leads a team of 18 staff. However, the rate-setting process is not clear.

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### Regulation & Oversight

As an independent nonprofit, GRWA is not regulated by the Public Utilities Commission of Ohio. There is some level of oversight by a board of directors who are elected by the membership of the water system; however, it is unclear when the organization's board meets or when the board or staff make decisions regarding rate structures. The board's relationship with the staff of GRWA was also unclear from the analysis.

### Transparency & Data Accessibility

No records of public GRWA meetings or rate-setting processes were provided by GRWA for review. The timeline for setting or reviewing water rates is unknown. We could not determine the membership's role in the rate-setting process. As a 501(c)(12), GRWA is not subject to public records requests.

**Community Engagement**

At the time of data collection, GRWA’s website and other public materials did not explain how their membership can participate in the rate-making process or other decision-making processes regarding their operation. While 501(c)(12) associations are structured as collectively owned and managed by the membership and a board of directors, GRWA’s operation appears to be somewhat opaque to the public.

**Current Affordability Measures**

GRWA offers no programs aimed at reducing or offsetting low-income customers’ water bills (i.e., income-based assistance or bill assistance programs).

There are two insurance-like programs that GRWA offers. These are entitled the SERVLINe Leak Program. The water line protection program covers repairs or replacements of water lines up to \$10,000 in cost. The water loss protection program automatically protects residential customers from excess water charges from eligible plumbing leaks for up to \$2,500.

**KEY FINDINGS**

- While GRWA’s water rates are on par with other rural systems in the region (average of \$54.50/month), they are higher than the state average of \$47.73/month.
- Because GRWA utilizes a declining-block rate, their rate structure benefits large water users.
- Rate-setting and governance decision-making within GRWA is opaque; additional transparency and community education is needed to effectively track and monitor water rates and governance issues.
- GRWA has an opportunity to explore affordability and low-income customer assistance programs; the high percentage of customers with income levels below the federal poverty line suggests that there may be a demand for these supports.
- GRWA, as a private, nonprofit water utility in Ohio, appears to operate without significant regulatory and oversight. Additional analysis of the regulatory landscape and structures pertaining to nonprofit water systems in Ohio may be beneficial.

**RECOMMENDATIONS & OPPORTUNITIES FOR FURTHER RESEARCH**

Perhaps the most significant finding from our review and analysis of the GRWA is that private, nonprofit water utilities in Ohio appear to operate in a regulatory and oversight vacuum. As a 501(c)(12) organization, GRWA is not regulated by the Public Utilities Commission of Ohio and is not subject to public records laws. Multiple inquiries to GRWA, including by members (ratepayers), did not yield even basic information about GRWA’s operation and rate-setting process.

The opacity of GRWA operations and rate-setting processes presents an opportunity for improvement and increased public participation in local water governance. This may be true in similarly situated rural water associations. GRWA ratepayers should be able to easily communicate with staff to learn more about the provision of their water, including how and when the water rates are established. Given the high percentage of customers living under the federal poverty line in the water system (19%), GRWA should also consider avenues for offering affordability and customer assistance programs.

# CLEVELAND WATER UTILITIES

## BACKGROUND

Water, wastewater, and stormwater services in the city of Cleveland and parts of Greater Cleveland are the responsibility of the Cleveland Water Department, Water Pollution Control (WPC), which is the local stormwater manager for the city of Cleveland, and the Northeast Ohio Regional Sewer District. Cleveland Water and the Sewer District work together and separately to maintain service for thousands of customers in Cuyahoga, Geauga, Medina, Portage, Summit, Lake and Lorain counties. Cleveland Water and NEORS D are the largest water and wastewater utility providers in the state of Ohio, respectively.<sup>5</sup>

- **WPC** manages sewer and stormwater within the Cleveland city limits only, managing 12 pumping stations and conducting maintenance and repairs on the city's aging sewer infrastructure, with 27% of the 1,436 miles of storm and wastewater lines over 100 years old.
- **Cleveland Water** services 80 communities across the Greater Cleveland area, spanning over 640 square miles with 5,400 miles of mains, providing water to over 1.5 million people with over 442,000 customer accounts. Cleveland Water is the 10th largest public water utility provider in the United States.<sup>6</sup>
- **NEORS D** is a regional sewer district and a political subdivision of the state of Ohio, serving 62 communities, including Cleveland, with three major treatment plants: Easterly, Southerly and Westerly.

According to recent Census data, the counties served by Cleveland Water and NEORS D have a range of income and poverty levels, with the poverty rate as high as 32.7% and as low as 5.5%,<sup>7</sup> with the city of Cleveland hovering around a 30% poverty rate and a median household income under \$31,000.

At the same time, water rates are on the rise at a pace that outstrips wage growth. Cleveland Water has invested more than \$1.5 billion in system maintenance over the past 20 years, with its last rate increase, of 4.5%, in 2020. In October 2021, the Cleveland City Council approved rate increases of 3.5% for water consumption in Cleveland and the suburbs beginning in 2024, and a graduated increase in Water Pollution Control rates that would take effect in 2022, raising the average Cleveland resident's local sewer bill – separate from NEORS D charges – from \$12.27 to \$17.39 by 2024. NEORS D operates under a consent decree, with a \$3 billion infrastructure project to reduce sewer overflows into Lake Erie, which has contributed to rising bills. After a court battle, NEORS D recently levied a controversial stormwater management fee, based on the impermeable surface area, that averages about \$5/month for homeowners, with the possibility of up to a 25% credit.

## OVERVIEW OF WATER RATES & RATE-SETTING PROCESS

The Greater Cleveland Area's three water utilities – CWD, WPC, and NEORS D – are similar in that they charge customers based on both fixed and consumption charges using a standard unit of measurement – a thousand cubic feet (MCF), with 1 MCF equivalent to 7,480 gallons of water. Aligned, mutually exclusive assistance programs across utilities – the Homestead Discount and the Affordability Program – offer low-income customers discounts, with NEORS D offering additional crisis and emergency repair programs for eligible customers. Each conducts a separate rate study that is managed by the same rate consulting firm, Stantec, with rate revisions conducted on a five-year cycle. The next request for proposals (RFP) for rate studies is expected in 2025. Each entity can request an affordability analysis as part of the rate study process.

5. <https://www.neorsd.org/about/> and <https://www.clevelandwater.com/2020WQR.pdf>.

6. <https://www.clevelandwater.com/2020WQR.pdf>.

7. <https://www.census.gov/quickfacts/medinacountyohio>

## Water Bill Breakdown – Rates & Fees by Utility

	<b>CLEVELAND WATER RATES</b>	<b>WATER POLLUTION CONTROL RATES</b>	<b>REGIONAL SEWER DISTRICT</b>
<b>Fixed Charge</b>	Based on size of water meter (5/8–1 inch for residential; larger for commercial and industrial up to 12”); with a \$9.20 charge for an average customer and \$5.80 for Homestead customers	Rate assessed based on meter size up to 12” with a minimum charge of \$4.17 for the average customer and \$2.47 for Homestead customers	Cost-recovery charge or “base charge” of \$9.70 in 2021; poised to increase  Tiered stormwater fee based on impervious surface area on property, such as rooftops, driveways, and patios; higher nonresidential rate (see <a href="#">fee-finder tool</a> )
<b>Consumption/ Volumetric Charge</b>	Based on consumption (MCF); from \$37.14 to \$68.72/MCF by zone determined by distance and elevation from Lake Erie (see <a href="#">Water Rate Zones</a> )	Based on consumption (MCF) with an average of \$12.53 for regular customers and \$7.43 for Homestead customers	Based on consumption, \$106.50/MCF in Cleveland and \$106.80/MCF in the suburbs; poised to increase
<b>Customer Assistance Programs (CAPs)</b>	<p><b>Two mutually exclusive discount programs:</b></p> <p>Homestead Discount: Lower fixed charge and consumption rate – must be age 65+; own and occupy property; income &lt;\$34,500 (enrollment valid for three-year period)</p> <p>Water Affordability Program: 40% discount on all standard charges – must own property and live at service address, income &lt;200% FPL; administered by <a href="#">CHN Housing</a> (enrollment for up to one year, with additional year enrollment subject to income reverification)</p>	<p><b>Two mutually exclusive discount programs:</b></p> <p>Homestead Discount: Lower fixed charge and consumption rate – must be age 65+, own and occupy property, income &lt;\$34,500 (enrollment valid for three-year period)</p> <p>Water Affordability Program: 40% discount on all standard charges – must own property and live at service address, income &lt;200% FPL; administered by <a href="#">CHN Housing</a> (enrollment for up to one year, with additional year enrollment subject to income reverification)</p>	<p><b>Same Homestead Discount and Affordability Program + two additional cost-saving programs:</b></p> <p>Crisis Assistance: Temporary 50% off of sewer balance (up to \$300) after qualified major life event, with verification documents required</p> <p>Plumbing/Sewer Repair: Emergency replacement and repairs, can be used once every two years by income-eligible customers only</p>

### FINDINGS & DISCUSSION

One of the most important findings of this investigation is that for the Cleveland water utilities, the initial process of drafting the request for proposals is a key opportunity to include affordability considerations. As it stands, an affordability analysis is conducted as part of the rate study only if requested by the client (utility), an option NEORSD prioritized in its most recent contract with Stantec, the rate-setting consultant.

Also of note, NEORSD’s volumetric charges are significantly higher than Cleveland Water’s, meaning that to the extent that the Cleveland region faces affordability challenges, they are driven more by sewer than water. The research revealed that Cleveland Water appears to have more flexibility to withhold rate increases than NEORSD, which is operating under a consent decree that mandates improvements to its combined sewer and storm system that, under heavy rains, overflows and releases raw sewage into Lake Erie.

The table below offers a summary of findings across key areas of analysis.

Summary of Findings	
<b>Regulation &amp; Oversight</b>	CWD (drinking water) and WPC (local sewer and stormwater) are operated by the city of Cleveland's DPU, which is accountable to the elected City Council Utilities Committee and mayor's office. NEORS is governed by seven Trustees: two appointed by the mayor of Cleveland, two Suburban Council of Governments, Cuyahoga County Executive, and two seats based on population and sewage flow. The Ohio Environmental Protection Agency regulates water quality compliance with the Clean Water Act and Safe Drinking Water Act but does not directly engage in system management and governance issues.
<b>Transparency &amp; Data Accessibility</b>	<p>CWD and WPC have public council hearings, and data is requested through the use of a public records request form, with some degree of administrative burden that could prove to be a barrier for the average resident. Requests to meet with CWD and WPC were declined or unanswered.</p> <p>NEORS staff provided information upon request; the city of Cleveland provided utility documents through the public records request process.</p> <p>Limited information was accessed via direct requests to staff, review of posted materials online and publicly available archives.</p>
<b>Community Engagement</b>	CWD and NEORS participate in and host opportunities for public engagement, but this does not appear to be a central consideration in the rate-setting process for either utility. Each entity has outreach staff who participate in community events and give presentations to inform customers about available resources and assistance programs. NEORS hosts the Greater Cleveland Water Equity Partners Groups, working with organizations that serve the Cleveland community, including CWD. It is unclear what formal opportunities, if any, currently exist for the public to engage in the rate-setting process.
<b>Current Affordability Measures</b>	Stantec is the current rate consultant that conducts the rate study for CWD, WPC, and NEORS, and an affordability analysis.

## RECOMMENDATIONS & OPPORTUNITIES FOR FURTHER RESEARCH

- Cleveland should streamline or align processes for rate studies across utilities and require affordability analysis as part of rate study process for all utilities.
- Cleveland utility leaders should assess the potential impact and viability of more progressive rate structures, such as an inclining block rate.
- Allow public participation in the RFP process, and make the rate study process more accessible, possibly through a citizen advisory board approach.
- Advocates should begin engaging senior utility staff and elected officials early, ahead of the 2025 RFP process for rate studies.
- Identify opportunities to expand and boost participation in customer assistance programs.



# TOLEDO AREA WATER SYSTEM

## BACKGROUND

The Toledo Regional Water Commission represents all member communities in the regionalized water system: Toledo, Perrysburg, Maumee, Sylvania, Whitehouse, Northwest Water and Sewer District, Lucas County, Fulton County, and Monroe County, Michigan. It was established on Nov. 6, 2018, in the Toledo City Charter through a ballot measure after years of discussion between the city of Toledo and the communities to which it sold treated water. In 2018 and through 2019, Toledo-area leaders moved toward a regionally governed water system to replace water sales contracts that were set to expire. The Toledo Regional Water Commission is made up of the Toledo public utilities director and the directors or commissioners of the public utilities from each contracting community. The Commission oversees the management and maintenance of water infrastructure to treat and supply tap water for all the communities in the system.

The Toledo Public Water System serves 500,000 people through 2,645 miles of pipelines, pumping stations and 100 million gallons of storage capacity in an 800-square mile service area. The public water supply comes from the city of Toledo's Lake Erie intake and Collins Park Water Treatment Plant. The city of Toledo owns and operates the Collins Park Water Treatment Plant,<sup>8</sup> transmission mains, and local water lines.

## OVERVIEW OF WATER RATES & RATE-SETTING

With the regionalization of Toledo's water system, local leaders hoped to solve a variety of problems with the formation of the Toledo Regional Water Commission. The problems identified at the time include local water rates and water policies that vary from community to community and that hindered a business-friendly environment; Toledo and Lucas counties employees performing similar, duplicative tasks; and different rate structures, which could lead to future service duplications by encouraging satellite communities to construct alternate systems.

In the fall of 2019, the Toledo City Council passed an ordinance to set retail rates for water service to the city of Toledo and Lucas County residents and wholesale rates to the respective contract jurisdictions. The water rates were recommended by the newly formed, independent Toledo Water Utility Commission. This included a wholesale rate for suburban customer communities for the treatment and delivery of water and a retail rate for Toledo and Lucas County water customers.

The rates are effective from Jan. 1, 2020, through Dec. 31, 2023, with annual increases effective Jan. 1 of each calendar year. Future retail and wholesale rate increases are anticipated through 2027 as surcharges to the contract jurisdictions are phased out.

### Regulation & Oversight

The Toledo Regional Water Commission has the authority to set water rates based on a cost-of-service methodology. This means they can set rates to cover costs that are common to everyone in the system – both currently and in the future (e.g., maintenance, repair, replacement, capital improvements, and debt service for all components of the water system). The Toledo City Council has the authority to reject or approve rate recommendations made by the commission.

### Transparency & Data Accessibility

The Toledo Regional Water Commission and Toledo City Council are both subject to the open meeting and public records laws established by the Ohio Revised Code. While residents are free to observe these meetings, there are limited opportunities for individuals to participate. Rate data also tends to be difficult to acquire, and depending on which community in the service area one might live in, even accessing or paying a bill online can be difficult.

8. In 2010, the treatment plant produced an average of 73.1 million gallons per day, with peak flow of 116.3 million gallons per day, and has a capacity of 150 million gallons per day.

**Community Engagement**

In recent years, Toledo has made efforts to hear from residents and work with the local water affordability task force. Additional community engagement and onramps to participation may be considered.

**Current Affordability Measures**

The city of Toledo is one of the only communities in the Toledo Water Commission service area to offer customer assistance programs to its customers. Toledo offers three discount programs for customers: a senior discount for customers over 65 (25% rate reduction); a low-income senior discount for income-eligible customers over 65 (40% rate reduction); and a homestead discount for permanently disabled individuals (25% rate reduction).

On Oct. 1, 2021, Toledo launched its debt forgiveness program for past-due water bills. This program is an effort to get residents who are behind on water bills onto payment plans and into assistance programs. Toledo also recently partnered with PromisePay to connect residents to affordability programs and financial resources. PromisePay allows customers to pay their bills through a smartphone-accessible website, use a variety of payment options including both Venmo and PayPal, and even request a later payment date just by sending a text.

**FINDINGS & DISCUSSION**

The Toledo regionalization project highlights the benefits of cooperation among communities in a regional water system; however, the project also demonstrates the ways in which regionalization efforts can be politically fraught. While the Toledo Regional Water Commission is still young in its formation, the benefits include long-term regional cooperation and all communities paying a fair share for improvements to water infrastructure and treatment. Benefits also include the likely cost savings incurred from the prevention of suburban communities splitting from the Toledo Water System and building a second water treatment system.

Some Toledo residents took issue with regionalization, elevating concerns about affordability, suggesting that the plan offered more benefits to suburban communities than Toledo city residents, and that low-income residents in the broader service area did not have enough of a voice in the process, which would inevitably impact water rates. Critics also point out that the city of Toledo did not incur cost savings from reduced labor or administrative redundancies. Rather, each community still has its own utility staff for maintenance and bill collection. Additionally, there are currently few low-income customer assistance options for customers outside of the city of Toledo.

**RECOMMENDATIONS & OPPORTUNITIES FOR FURTHER RESEARCH**

Now that Toledo has established a regionalized water system, there are critical opportunities looking forward. The new regional system provides an opportunity for communities to work together to secure funding for infrastructure improvements. The historic level of federal investment in water infrastructure through the Bipartisan Infrastructure Law, paired with COVID relief packages, presents an opportunity for communities of northwest Ohio to submit joint funding applications and collaborate on implementation. Affordability should be prioritized in funding and financing strategies for water infrastructure improvements.

The Toledo Water System could work to identify cost efficiencies and employ asset management practices that reduce the cost of managing the water system. This is especially important in the context of overburdened and aging water infrastructure, regardless of actual usage and consumption. This could also include a more comprehensive water loss prevention and efficiency program. Finally, the Commission should continue seeking more robust input from residents and engage communities earlier in water rate-setting processes and other critical decisions.

# AQUA OHIO

## BACKGROUND

Aqua Ohio, Inc. (water) and Aqua Ohio Wastewater, Inc. (wastewater and sewer), which will be referred to jointly as “Aqua Ohio” or “the utility,” were created as a result of several acquisitions and mergers. Aqua Ohio, a subsidiary of Essential Utilities, Inc. (formerly Aqua America), currently serves an estimated 500,000 people through 141,434 water connections and 6,900 wastewater connections.<sup>9</sup> It has 33 treatment facilities, five wastewater treatment facilities and about 180 employees. Its water sources consist of surface water (Evans, Pine, Hamilton, and McKelvey lakes, as well as Lake Erie), rivers and streams, and groundwater sources.<sup>10</sup>

Aqua Ohio’s service area is divided into five divisions: Franklin Division, Lake Division, Stark Regional Division, Marion Division and Struthers Division.<sup>11</sup> These are spread across 19 counties: Franklin, Lawrence, Preble, Ashtabula, Lake, Geauga, Summit, Williams, Marion, Richland, Morrow, Portage, Pike, Seneca, Stark, Carroll, Mahoning, Trumbull and Columbiana.<sup>12</sup>

As an investor-owned private utility, Aqua Ohio is regulated by the PUCO,<sup>13</sup> which regulates investment, finances, rates, and service quality for private utilities (energy, gas, water, wastewater, telecommunications, etc.) within the state of Ohio.<sup>14</sup> Rate-setting by private utilities is a principal area of regulation for PUCO, which is charged with ensuring that water rates and rate increases are just and reasonable, balancing the needs of the consumers and the utilities. In

accordance with Ohio Rev. Code Ann. § 4909.17, PUCO must approve any changes in rates by investor-owned utilities.

## OVERVIEW OF WATER RATES & RATE-SETTING

As noted previously, Aqua Ohio’s service area is divided into five divisions spread over 19 counties. The rates for each division are determined differently. Oftentimes, these rates rise over time based on the initial terms negotiated between the utility company and community water systems at the time of acquisition. Aqua Ohio’s rates are made up of two components:

- Distribution Rate (also referred to as a rate base)
- System Improvement Charges (SICs)

The Distribution Rate is the charge that accounts for the cost of delivering water to the utility’s customers. It is determined through a process overseen by the PUCO called a Distribution Rate Case, which requires an application by the utility (i.e., Aqua Ohio) and a review of relevant expenses, revenues and other investments by PUCO before it approves the charge.<sup>15</sup>

The System Improvement Charge is a separate and limited charge that can be added onto customers’ rates based upon capital improvements and infrastructure replacements the utility has made since it last received PUCO authority to increase rates.<sup>16</sup> While the process for determining the SIC is distinct from a Distribution Rate Case, it is also overseen by PUCO.

9. “Aqua America Ohio: Water Bill Pay & Phone Number,” accessed June 6, 2021, <https://www.aquaamerica.com/our-states/ohio.aspx>.

10. “Aqua America Ohio: Water Bill Pay & Phone Number.”

11. “Aqua\_ohio\_service\_areas\_2.2015.Pdf,” accessed June 6, 2021, [https://www.aquaamerica.com/media/22740/aqua\\_ohio\\_service\\_areas\\_2.2015.pdf](https://www.aquaamerica.com/media/22740/aqua_ohio_service_areas_2.2015.pdf).

12. “Aqua America Ohio: Water Bill Pay & Phone Number.”

13. PUCO’s jurisdiction over private water and wastewater utilities is derived from Ohio Rev. Code Ann. § 4905.04 and § 4905.05.

14. Scott Rubin and Roger Colton, “Navigating Legal Pathways to Rate-Funded Customer Assistance Programs: A Guide for Water and Wastewater Utilities,” n.d., 172.

15. “Ohio Consumers’ Counsel (OCC) HB 379 Testimony - Kurt 2012-03-14.Pdf,” accessed May 23, 2021, <http://www.occ.ohio.gov/sites/default/files/services/testimony/2012-03-14.pdf>.

16. “Ohio Consumers’ Counsel (OCC) HB 379 Testimony - Kurt 2012-03-14.Pdf.”

## RATE-SETTING PROCESS

All changes in rates by investor-owned utilities require approval of PUCO.<sup>17</sup> The agency reviews both Rate Case and System Improvement Charge applications of all investor-owned utilities (e.g., Aqua Ohio).

One of the requirements that utilities must meet to secure PUCO's approval for their rate increases is that such rates must be *just and reasonable*, and the burden of proving this lies with the utilities. Yet, by law, such rates must also allow the utilities to obtain a *fair and reasonable* rate of return on their investments. While PUCO's duty is to ensure customers are not charged excessive rates for safe and reliable water service, the terms "just," "reasonable," and "excessive" are just ambiguous enough to leave

room for significant debate about water affordability, the public interest, and the value of water itself.

In reviewing proposed utility rates, PUCO uses a formula to determine the revenue requirement. The gross annual revenues to which the utility is entitled is determined by adding the dollar amount of a fair and reasonable rate of return on the valuation of its property to the cost of rendering the public service for the test period. As such, the basis for determining the rate of return lies primarily on the valuation submitted by the utility.

It does not appear that customer affordability of the rates is a major consideration of PUCO during the rate review and approval process as long as the rate of return in comparison to the valuation is not considered "excessive."

### Regulation & Oversight

OEPA: Regulates water quality under the Safe Drinking Water Act (SDWA). OEPA also collates and publishes annual, comprehensive consumer confidence reports on such water utilities to keep consumers informed on the quality of service provided by the utility.

PUCO: Regulates investment, finances, rates, and service quality for private utilities (energy, gas, water, wastewater, telecommunications, etc.) within the state of Ohio.

Ohio Consumers' Counsel (OCC): State agency that also exerts some measure of regulatory influence over Aqua Ohio. Created in 1976, it serves as a publicly funded watchdog for utility consumers by giving voice and legal representation to ensure affordable utility bills and reliable service, a role distinct from that of the Public Utilities Commission of Ohio. The OCC is the only state government agency charged with appearing before PUCO, Ohio and federal courts, and other agencies to represent and protect Ohio's residential consumers.<sup>18</sup>

- Leadership and ownership/governance type
- Service area and population trends, demographics, economy
- Notable water issues, if any

Corporate Governance: Based on the 2020 Annual Reports filed with PUCO,<sup>19</sup> both companies are investor-owned utilities, governed by the same board of directors and managed by the same principal general officers and leadership team. At the time of Aqua Ohio filing its 2020 Annual Report, there were five\* directors, and the number of directors required to constitute a quorum is three.

### Transparency & Data Accessibility

As a regulated utility, Aqua Ohio is subject to public records requests, and documents submitted to and produced by PUCO and OCC can be accessed online. This includes service area details and maps, PUCO rules and meeting minutes, and annual reports and tariffs of regulated companies stored in the Documents and Rules folder on the website, as well as documents filed and stored in the PUCO Docketing Information System (DIS). The DIS contains the case records and filings of all regulatory proceedings before the Commission.

17. Ohio Rev. Code Ann. § 4909.17.

18. Leigh Herington, "Column: Protect Ohio Utility Customers and the Consumers' Counsel," The Columbus Dispatch, accessed May 24, 2021, <https://www.dispatch.com/story/opinion/columns/2020/11/03/protect-ohio-utility-customers-and-consumers-counsel/6121103002/>.

19. The PUCO requires all regulated utilities with active PUCO operating certificates during the reporting year to file an annual report for their annual fiscal assessment through PUCO's web-based filing system at the time and in the form prescribed by PUCO of the subsequent year. In turn, PUCO reports annual report data to the OCC in satisfaction of the provisions of Ohio Rev. Code Ann. § 4905.14.

**Community Engagement** Opportunities for public engagement are limited. Communities can take action to challenge rate increases, and there may be opportunities for residents or local groups to influence that process or to engage OCC. For example, the city of Ashtabula filed a resolution opposing Aqua’s proposed rates. The city of Marion filed an objection to the PUCO Staff Report of Investigation on various grounds, including 1) that the increase and the range of return recommended were unjustified and excessive and 2) that the PUCO staff failed to recommend the initiation of an assistance program despite acknowledging the relatively large percentage of the customer contacts with the PUCO call center involving disconnection or payment-related issues. Results are mixed, and accountability mechanisms are lacking.

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**Current Affordability & Assistance Measures** No information was available on the Aqua Ohio website with regard to bill/rate assistance. Neither was such information available under the Utility Assistance Programs featured on the PUCO website. However, interviews were held with OCC’s senior regulatory analyst, who explained that during/after each Rate Distribution Case, further negotiations ensue between the regulated utility (i.e., Aqua Ohio) and the OCC on behalf of the utility’s residential customers to agree on an amount to be set aside for the purpose of providing funding for a rate assistance program.

## RECOMMENDATIONS & OPPORTUNITIES FOR FURTHER RESEARCH

**Prioritizing affordability in rate design and review for investor-owned utilities:** PUCO should work with communities, NGOs, and peer agencies to develop stronger, easily understood affordability criteria to be incorporated into the rate design and review process at two key junctures:

- a. At the time of acquisition (rate design)
- b. During a rate case or SIC review

**Identify best practices and encourage adoption of water affordability and assistance measures across investor-owned and municipal water systems:** OEPA and PUCO should work together to identify best practices in terms of affordability and assistance, and work to ensure investor-owned utilities implement transparent assistance programs and prioritize affordability measures for low-income customers. Learnings should also be shared with municipally owned and operated utilities, and OEPA should work with those utilities and home rule communities to encourage uptake of water affordability protections and low-income assistance.

**Ensure community education and participation in water governance issues:** In considering rate studies, PUCO should require investor-owned utilities seeking rate approval to offer clear, frequent, and accessible opportunities for community engagement. Additionally, NGOs and state agencies should work together to support community education around water affordability and assistance, community water system management, and drinking water safety ahead of acquisition. Opportunities for community participation in water governance and rate-setting beyond acquisition should also be explored.