

If you raised your rates in compliance with a rate study, then I suspect you are correct and the rates cannot be lowered without putting the city at risk of being out of compliance with state law. Act 605 of 2021 requires municipal water providers to receive a rate study based on a specific schedule, based on the number of customers serviced:

A provider shall obtain a rate study on the following schedule:

(A) By July 1, 2024, and every five (5) years thereafter for a provider that serves five hundred (500) or fewer customers;

(B) By July 1, 2025, and every five (5) years thereafter for a provider that serves five hundred one (501) to one thousand (1,000) customers; and

(C) By July 1, 2026, and every five (5) years thereafter for a provider that serves more than one thousand (1,000) customers.

See Ark. Code Ann. § 14-234-802(c)(1). The study is to ensure that the “Rates and other revenue dedicated to the support of the provider’s water system shall adequately address costs for: (i) Operation and maintenance; (ii) Debt service; (iii) Required reserves; (iv) Depreciation; (v) Future capital expenses; (vi) Preparation of an annual audit or agreed-upon procedures and compilation report as required by law; and (vii) Other expenses as necessary,” as required by state law. *Id.* at § 14-234-802(c)(2)(A). See also Ark. Code Ann. § 14-234-214(b). If the study recommends that the water provider raise rates, the new rates **must** be implemented “by the provider in the manner provided” by the statute:

(ii) Except as provided in subdivision (c)(2)(B)(iii) of this section, an increase in rates recommended in the rate study shall be implemented within one (1) year of the receipt of the rate study.

(iii) If recommended rates increase the provider's rates by fifty percent (50%) or more from the fiscal year before the rate study was completed, the provider may phase in the rate increase over a two-year period.

(iv) If through the rate study it is recommended that a series of rate increases be implemented over a period of time that exceeds the periods of time required in subdivisions (c)(2)(B)(ii) and (iii) of this section, the provider may implement the series of rate increases without regard to the limitations of subdivisions (c)(2)(B)(ii) and (iii) of this section, provided that the series of rate increases conform with the recommendations of the rate study.

Id. at § 14-234-802(c)(2)(B).

While you didn't necessarily ask a question in your email, the information above is the state law that effectively leaves the town with little to no discretion regarding the raising of the rates. When the citizens may not be happy with it, the best thing municipalities can do is provide the information and attempt to help customers understand that this is a state law requirement established by the state legislature and not the city. That may be easier said than done, but that is the position that the law has left municipal water providers in. At the end of the day, the

purpose of the law is to ensure that the infrastructure of our water systems are maintained and kept operational so that these systems do not experience a major system failure that the system cannot afford to fix. If anyone from the State calls, make sure they are aware that you are a Municipal Water provider, and feel free to share this email.

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