

MEMORANDUM

TO: David Angerer
FROM: Sid Hemsley, Senior Law Consultant
DATE: April 1, 2002 (updated 7/23/2021)
RE: Utility Rate Breaks for Elderly

You have the following question: Can the City of Martin give utility rate reductions or exemptions to the elderly?

The answer is no.

I have been asked that question many times and have never found any authority for a municipality to discriminate in the application of utility rates for reasons of age, poverty, or similar purpose. Tennessee Attorney General's Opinions 99-026 and 97-127 reach the same conclusions with respect to charitable organizations. The statutes and reasoning in those opinions apply to municipal utilities and to elderly utility customers.

However, in my opinion, the Attorney General in TAG 99-026 is wrong in its suggestion that though a *private act* a city might be authorized to provide such utility rate relief. T.C.A. § 7-34-115 clearly applies to all municipal utility systems, including those organized and operated under their municipal charters. It is equally clear that the General Assembly can by general legislation render null all private acts in conflict with general laws, and that it has done so in T.C.A. § 7-34-115, with respect to any past or future private act granting or authorizing utility rate relief for the elderly. That statute says in the first two sentences:

(a) Notwithstanding the provisions of any other law to the contrary, as a matter of public policy, municipal utility systems shall be operated on sound business principles as self-sufficient entities. User charges, rates and fees shall reflect the actual cost of providing the rendered....

That same statute goes on to list the things for which "all revenues derived from a public works" can be spent. Nothing in that statute, or any other statute governing utility systems, authorizes utility rate relief for the elderly.