



Federal Communications Commission
Washington, D.C. 20554

File No. CSR-8925
MB Docket No. 16-274
DA 18-110

Released: February 6, 2018

Victor Grigoraci, CPA
City Treasurer
City of Charleston
501 Virginia Street East, Room 203
Charleston, WV 25301

Re: Letter Request for Definitive Ruling Regarding Pass-thru by Suddenlink Communications of City of Charleston, WV Municipal Business and Occupation Tax to Subscribers

Dear Mr. Grigoraci:

This letter ruling is in response to your July 8, 2016 letter (Letter Request).¹ In your Letter Request, you ask for a definitive ruling that Suddenlink, a cable operator in Charleston, WV, is not permitted to identify the Charleston Municipal Business and Occupation Tax as a line item on each subscriber's bill.² Suddenlink filed an opposition to your Letter Request.³ For the reasons set forth below, we deny your Letter Request.

Section 622(c) of the Communications Act of 1934, as amended (Communications Act), identifies categories of costs that cable operators may itemize on their bills.⁴ The Commission has previously stated that Section 622(c) does not "... preclude the itemization of additional costs (whether or not governmentally imposed) . . ."⁵ Because the Commission has interpreted the statute as permissive as opposed to exclusive, the itemization of the Charleston Municipal Business and Occupation Tax does not run afoul of the Communications Act or the Commission's rule with regard to bill itemization.⁶

¹ See Letter from Victor Grigoraci, CPA, City Treasurer, Charleston, WV to the Federal Communications Commission (July 8, 2016) (on file in MB Docket No. 16-274) (Letter Request). Mr. Grigoraci filed his Letter Request in his personal capacity and not on behalf of the City of Charleston, WV. See Letter from Robert R. Rodecker, Esq., Counsel to the City of Charleston, WV at 1 (February 13, 2017).

² The Municipal Business and Occupation Tax is styled as the "Local Business and Occupation Tax" on subscribers' bills.

³ See Opposition of Suddenlink Communications, File No. CSR-8925, MB Docket No. 16-274 (filed January 13, 2017).

⁴ 47 U.S.C. § 542.

⁵ *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Report and Order and Further Notice of Proposed Rulemaking*, 8 FCC Rcd 5631 at 5967, para. 545 (FCC 1993) ("Rate Order").

⁶ See 47 U.S.C. § 542; 47 CFR § 76.985.

In support of your position, you cite to a Cable Services Bureau letter ruling regarding the treatment of taxes as external costs for purposes of rate regulation.⁷ As the City of Charleston is not engaged in rate regulation, that letter ruling is not relevant to the itemization issue raised in your Letter Request.⁸

Moreover, the fact that the Municipal Business and Occupation Tax is based on gross income, and is not assessed on a per-subscriber basis, does not change that interpretation.⁹ The issue of the itemization of non-subscriber based revenue, *i.e.* revenue that cannot be attributed to a particular subscriber, was previously resolved by the Commission in its *City of Pasadena* decision.¹⁰ There, the Commission stated that “cable operators are permitted to itemize on a subscriber’s monthly bill the full amount assessed . . . including non-subscriber related revenue.”¹¹

In conclusion, you have not identified any statutory provision or Commission rule that prevents Suddenlink from identifying the Charleston Municipal Business and Occupation Tax as a line item on each subscriber’s bill. Accordingly, pursuant to 47 C.F.R. §§ 0.61 and 76.7 (i), your Letter Request IS DENIED.

Sincerely,

Steven A. Broeckaert,
Senior Deputy Chief
Policy Division, Media Bureau
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⁷ Letter Request at 1, *citing Public Notice*, DA 99-2523, 14 FCC Rcd 20099 (CSB 1999).

⁸ For purposes of rate regulation certification, the community identification unit number of Charleston is WV0104.

⁹ *See* Letter Request at 3.

¹⁰ *See City of Pasadena, California, et al.*, 16 FCC Rcd 18192 (FCC 2001) (*City of Pasadena*), *pet. for rev. den. sub. nom.*, *Texas Coalition of Cities for Utility Issues, et al. v. FCC*, 324 F.3d 802 (5th Cir. 2003).

¹¹ *Id.* at 18193, para. 3.