

KARL F. DEAN
MAYOR

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



July 26, 2010

RECEIVED

T.R.A. DOCKET ROOM

MARILYN S. SWING
METROPOLITAN CLERK
205 METROPOLITAN COURTHOUSE
P.O. BOX 196321
NASHVILLE, TENNESSEE 37219-6321
PHONE: (615) 862-6770
FAX: (615) 862-6774
metro.clerk@nashville.gov

Received
MARY W. FREEMAN

JUL 28 2010

TN Regulatory Authority

Mary W. Freeman, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

RE: METROPOLITAN COUNCIL RESOLUTION NO. RS2010-1274

Dear Chairman Freeman:

The Metropolitan Council of Nashville and Davidson County, at its meeting of July 20, 2010, adopted Council Resolution No. RS2010-1274 captioned as follows:

A resolution regarding Public Chapter 932 of the Public Acts of 2008, the Competitive Cable and Video Services Act, as it relates to the definition of "Gross Revenues" and to franchise fees.

A certified copy of that legislation is enclosed, as required under DDVSA, Tennessee Code Annotated § 7-59-303(11)(A)(1).

Very truly yours,

Marilyn S. Swing
Metropolitan Clerk

enclosure

cc: Mr. Keith Durbin
Mr. Jon Cooper

RESOLUTION NO. RS2010- 1274

A resolution regarding Public Chapter 932 of the Public Acts of 2008, the Competitive Cable and Video Services Act, as it relates to the definition of "Gross Revenues" and to franchise fees.

WHEREAS, on May 15, 2008, the Governor signed into law the Competitive Cable and Video Services Act, Public Chapter 932 of the Public Acts of 2008 ("CCVSA"); and,

WHEREAS, the CCVSA, Tenn. Code Ann. § 7-59-303(11)(A)(i), provides that a governing authority of a municipality may, by resolution adopted and sent to the Tennessee Regulatory Authority, include in the CCVSA "Gross Revenues" definition, and thus in the revenue base on which cable/video service providers pay franchise fees to the municipality, the amount of franchise fees paid by such cable/video service provider; and,

WHEREAS, on August 5, 2008, and pursuant to the CCVSA, BellSouth Telecommunications, Inc., d/b/a AT&T Tennessee, was granted a state-issued certificate of cable and video franchise authority by the Tennessee Regulatory Authority for an area that includes the area of the Metropolitan Government of Nashville and Davidson County ("Metropolitan Government"); and,

WHEREAS, Ordinance No. O95-1379 granted a franchise to Televue-Systems, Inc. d/b/a Viacom Cable ("Viacom"); and,

WHEREAS, said franchise was transferred by Viacom to Intermedia Partners Southeast ("Intermedia"), who accepted and acknowledged the terms of the Cable Communications Franchise Agreement accompanying it (the "1995 Franchise Agreement"), and this transfer, acceptance and acknowledgment was approved by Metropolitan Council Ordinance O99-1810; and,

WHEREAS, said franchise was transferred by Intermedia to Broadband Nashville I, LLC, whose parent company became Comcast Cable Communications, Inc., who accepted and acknowledged the terms of the 1995 Franchise Agreement and which transfer, acceptance and acknowledgment was approved by Metropolitan Council Ordinance BL2001-591; and,

WHEREAS, said franchise and 1995 Franchise Agreement were accepted, acknowledged and reaffirmed by Comcast Cablevision of Nashville I, LLC, now Comcast of Nashville I, LLC ("Comcast"), formerly known as Broadband Nashville I, LLC, and this acceptance, acknowledgment and reaffirmation was approved by Metropolitan Council Ordinance BL2002-1066, such that Comcast formally became and is now the franchisee of the Metropolitan Government subject to the 1995 Franchise Agreement; and,

WHEREAS, the 1995 Franchise Agreement approved by Ordinance No. O95-1379 commenced on or about May 5, 1995, and under the terms of the 1995 Franchise Agreement, the franchise of Comcast was originally scheduled to expire on or about May 5, 2010; and,

WHEREAS, pursuant to Second Substitute Ordinance No. BL2010-645, effective on April 22, 2010, the expiration date of the 1995 Franchise was extended through May 5, 2011; and,

WHEREAS, Comcast and the Metropolitan Government have expressed a desire to negotiate a new cable franchise, as permitted by the CCVSA, Tenn. Code Ann. § 7-59-304(a); and,

WHEREAS, Section 6.08.020(q), "Gross Revenues," of the Metropolitan Code provides that franchise fees shall not be deducted from Gross Revenues in calculating franchise fees owed the Metropolitan Government, and thus Comcast is required to include franchise fees in Gross Revenues in calculating franchise fees owed the Metropolitan Government; and,

WHEREAS, to ensure equitable treatment of cable service and video service providers within Metropolitan Nashville and to permit the Metropolitan Government to obtain the maximum franchise fee permitted by law, the Metropolitan Government desires to exercise the option provided by CCVSA, Tenn. Code Ann. § 7-59-303(11)(A)(i), to include franchise fees in the definition of "Gross Revenues" applicable to all state-certificated cable or video service providers operating within the area of the Metropolitan Government.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Government hereby states that all state-certificated cable or video service providers operating or hereafter operating within the area of the Metropolitan Government pursuant to the CCVSA shall, in calculating franchise fees owed to the Metropolitan Government, include franchise fees in the definition of Gross Revenues.

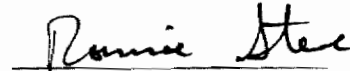
Section 2. That the Metropolitan Government will promptly send a certified copy of this resolution to the Tennessee Regulatory Authority as the notice required under CCVSA, Tenn. Code Ann. § 7-59-303(11)(A)(i).

Section 3. That this Resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government requiring it.

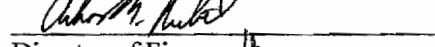
RECOMMENDED BY:


Chair, CATV Special Committee

INTRODUCED BY:


Ronnie Stee

APPROVED AS TO AVAILABILITY
OF FUNDS:


Director of Finance

MEMBERS OF COUNCIL

APPROVED AS TO FORM AND LEGALITY:


Assistant Metropolitan Attorney

ORIGINAL

METROPOLITAN COUNTY COUNCIL

Resolution No. RS2010-1274

A resolution regarding Public Chapter 932 of the Public Acts of 2008, the Competitive Cable and Video Service Act, as it relates to the definition of "Gross Revenues" and to franchise fees.

2010 JUL 12 AM 11:38

FILED
METROPOLITAN
CLERK

Introduced JUL 20 2010

Amended

Adopted JUL 20 2010

Approved JUL 23 2010

By

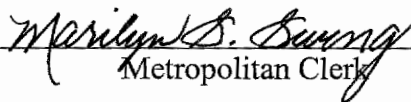
Kel F. L.

Metropolitan Mayor

CERTIFICATION

I, Marilyn S. Swing, being the duly appointed Metropolitan Clerk of The Metropolitan Government of Nashville and Davidson County, do hereby certify that the foregoing is a true and exact copy of Resolution No. RS2010-1274 of said Metropolitan Government, which resolution was adopted on July 20, 2010, at the meeting of the Metropolitan Council held on that date, and is now recorded in Book No. M 66, page 207.

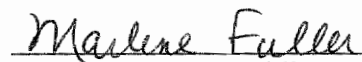
WITNESS MY HAND and the Seal of The Metropolitan Government of Nashville and Davidson County, Tennessee, this 26th day of July, 2010.



Metropolitan Clerk

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Sworn to and subscribed before me,
by Marilyn S. Swing, this 26th
day of July, 2010.



Notary Public



My Commission expires: 07-08-13