

## **REVIEW OF CABLE FRANCHISE FEES**

### **What is a Franchise Fee Review?**

A Franchise Fee Review is an in-depth analysis of the franchise fees paid to the local franchise authority by a cable operator for a specific time period.

### **What Time Period Should be Reviewed?**

There are economies that come from reviewing multiple years. You should try to review as many years as your agreement and the law permits. The review period is normally limited by a statute of limitations as provided by local and/or state law-so be aware of your statute of limitations.

### **What is the Purpose of a Review?**

The purpose of the Franchise Fee Review is to analyze the methodology and calculations used by the cable operator to determine the franchise fees paid to the local franchise authority to ensure that 1) franchise fees paid were in accordance with the franchise agreement; and, 2) to establish a basis for future calculations.

### **Why Do You Need a Franchise Fee Review?**

The local franchise authority has an obligation to its community to ensure that the franchise fee dollars collected from the cable operator are correct. Because the cable industry is constantly changing and evolving, errors are often noted when calculating franchise fees due to issues such as transfers, new accounting systems and/or staff, clerical errors, and changes in accounting methodologies.

In addition, it has been our experience that cable operators often times have different interpretations of the definition of gross revenues that work to the advantage of the cable operator. These differences may not be apparent until an in-depth review of the determination of franchise fees has been performed.

### **Issues to Consider**

There are several issues to consider when undertaking a Franchise Fee Review. First, one must consider the statute of limitations to determine how many preceding years can be reviewed, and when the report has to be issued, so that any underpayment can still be recovered under the law.

Often times, there has been a change or transfer in cable operators during the review period. Each cable operator has its own quirks and nuances in interpreting the varying definitions of gross revenues. For example, the accounting treatment of new services can result in inconsistent or incorrect payments. Performing a Franchise Fee Review can identify these differences and have them corrected before the statute of limitations expires.

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### **What are the Benefits of a Franchise Fee Review?**

The main benefit is to identify differences in revenues consistent with the terms of the franchise that allow the local government to obtain unrealized dollars for past years, and to set the ground rules for coming years. During the process of a franchise renewal, a Franchise Fee Review can identify items that should be considered during the negotiation process, such as changes to the definition of gross revenues and changes to the reporting requirements of the franchisee.

### **What a Franchise Fee Review is NOT**

A Franchise Fee Review is NOT the issuance of an unqualified opinion by external auditors. Instead, it is an in-depth review of every category of revenues to determine whether the cable operator properly included or excluded all revenues in accordance with the definition of gross revenues.

A Franchise Fee Review is NOT a determination that the Franchisee is meeting or is able to meet the financial requirements of the franchise. A financial review used in the award, transfer or renewal of the franchise is a determination of the franchisee's ability to meet the financial requirements of the franchise. It typically involves reviewing the ability of the franchisee to meet the cash requirements of its business over the term of the franchise.

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### **Carolyn A. Sculco, CPA**

Carolyn's area of expertise is franchise fee reviews, which she has done exclusively since 1994. Her collective findings have resulted in unreported revenues exceeding ten million dollars.

Carolyn graduated from Stetson University with a BBA in Accounting.

Her previous experience includes:

- Utility consulting since 1990
- Public accounting with Ernst & Young
- Internal audit with New England Electric System