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Cable Television and Broadband Newsletter

Topic: 3-Year Statute of Limitations on Cable Television Video Service Audits

AB 2987, the Digital Infrastructure and Video Competition Act of 2006, took effect on January 1, 2007. Under the Act, existing cable companies pay franchise fees of 5% of their "gross revenues", as defined by state law. The Act also imposes a three-year statute of limitations for performing audits of franchise fees.

The California Public Utilities Commission ("the CPUC") is authorized to administer state-granted video/cable franchises. Section 5860(i) of the CPUC rules states, in part: "Not more than once annually, a local entity may examine the business records of a holder of a state franchise to the extent reasonably necessary to ensure compensation in accordance with this section. Any claims by a local entity that compensation is not in accordance with subdivision (a) ... shall be made within three years and 45 days of the end of the quarter for which compensation is remitted, or three years from the date of the remittance, whichever is later".

The first quarterly franchise fee payments pursuant to AB 2987 were made by most cable operators during the second quarter of 2008. Any claims for underpaid franchise fees reported during that period must be submitted by cities and counties to their cable operators within three years, which would be during the second quarter of 2011. Therefore, any agencies wishing to audit their 2008 franchise fee payments under AB 2987 should plan to have such audits performed by late 2010 or early 2011.

Diehl, Evans & Company, LLP and Communications Support Group, Inc. have conducted well over 100 cable television franchise fee compliance reviews for California cities and counties, including UUT compliance reviews. Please contact us if you have questions regarding possible audits for your agency, or the information covered in this newsletter.

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