

12-2024. Video service provider; notice; agreement; video service provider fee; percentage of gross revenues determined by municipality, limitation; audit; customer billing. (a) A video service provider shall provide notice to each municipality with jurisdiction in any locality at least 30 calendar days before providing video service in the municipality's jurisdiction. Within 30 days of the time notice is delivered to the municipality, the video service provider shall execute an agreement substantially similar to the following, which shall be filed with the city or county clerk and shall be effective immediately:

"[Video Service Provider] was granted authorization by the state of Kansas to provide video service in [Municipality] on [date] and hereby executes this agreement with [Municipality]. [Video Service Provider] will begin providing video service in [Municipality] on or after [date]. [Video Service Provider] may be contacted by the [Municipality] at the following telephone number _____. [Video Service Provider] may be contacted by customers at the following telephone number _____. [Video Service Provider] agrees to update this contact information with [Municipality] within 15 calendar days in the event that such contact information changes. [Video Service Provider] acknowledges and agrees to comply with [Municipality's] local right-of-way ordinance to the extent the ordinance is applicable to [Video Service Provider] and not contrary to state and federal laws and regulations. [Video Service Provider] hereby reserves the right to challenge the lawfulness or applicability of such ordinance to [Video Service Provider]. By entering into this agreement, neither the municipality's nor [Video Service Provider's] present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the agreement, neither the municipality nor [Video Service Provider] waive any rights, but instead expressly reserve any and all rights, remedies and arguments the municipality or [Video Service Provider] may have at law or equity, without limitation, to argue, assert and/or take any position as to the legality or appropriateness of any present or future laws, ordinances and/or rulings."

(b) In any locality in which a video service provider offers video service, the video service provider shall calculate and pay the video service provider fee to the municipality with jurisdiction in that locality upon the municipality's written request. If the municipality makes such a request, the video service provider fee shall be due on a quarterly basis and shall be calculated as a percentage of gross revenues, as defined herein. Notwithstanding the date the municipality makes such a request, no video service provider fee shall be applicable until the first day of a calendar month that is at least 30 days after written notice of the levy is submitted by the municipality to a video service provider. The municipality may not demand the use of any other calculation method. Any video service provider fee shall be remitted to the municipality by the video service provider not later than 45 days after the end of the quarter.

(c) The percentage to be applied against gross revenues pursuant to subsection (b) shall be set by the municipality and identified in its written request, but may in no event exceed 5%.

(d) Gross revenues are limited to amounts billed to and collected from video service subscribers for the following:

- (1) Recurring charges for video service;
- (2) event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges;
- (3) rental of set top boxes and other video service equipment;
- (4) service charges related to the provision of video service, including, but not limited to, activation, installation, repair and maintenance charges; and
- (5) administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges.

(e) Gross revenues do not include:

- (1) Uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected, less expenses of collection, shall be included in gross revenues in the period collected;
- (2) late payment fees;
- (3) amounts billed to video service subscribers to recover taxes, fees or surcharges imposed upon video service subscribers in connection with the provision of video service, including the video service provider fee authorized by this section; or
- (4) charges, other than those described in subsection (d), that are aggregated or bundled with amounts billed to video service subscribers.

(f) At the request of a municipality, no more than once per year, the municipality may perform a reasonable audit of the video service provider's calculation of the video service provider fee.

(g) Any video service provider may identify and collect the amount of the video service provider fee as a separate line item on the regular bill of each subscriber. To the extent a video service provider incurs any costs in providing capacity for retransmitting community programming as may be required in subsection (h) of K.S.A. 2014 Supp. 12-2023, and amendments thereto, the provider may also recover these costs from customers, but may not deduct such costs from the video service provider fee due to a municipality under this section.

History: L. 2006, ch. 93, § 4; July 1.