CHAPTER 10. AD VALOREM

SUBCHAPTER 18. CENTRALLY ASSESSED PUBLIC SERVICE COMPANIES

710:10-18-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"End-user consumer" means a residential, business, institutional, governmental, or other customer that uses broadband-based services for its own purposes and does not resell such services to other entities or incorporate such services into a retail service offering. An Internet service provider, wholesaler, or other reseller of such services is not an end-user consumer.

"Offering broadband-based services" means furnishing, selling, marketing, or holding out the availability of fixed or mobile Internet access, Voice over Internet Protocol, or Internet Protocol Television to end-user consumers in this state.

710:10-18-4. Annual returns and related schedules for centrally assessed companies and companies subject to status review

(a) Each company subject to central assessment as a railroad, air carrier, public service corporation, video services provider, or broadband service provider shall file the annual return, schedules, questionnaires, and other materials prescribed by the Oklahoma Tax Commission within the time required by law or otherwise specified by the Commission.

(b) The Ad Valorem Division may require a company for which it is determining whether the company is subject to central assessment to file such returns, schedules, questionnaires, or other information as are reasonably necessary to make that determination and, if applicable, to determine the appropriate assessment treatment. The company shall provide the requested information within the time specified by the Oklahoma Tax Commission.

(c) Returns, schedules, questionnaires, and other materials required under this Section shall be filed with the Oklahoma Tax Commission and received electronically through the OkTAP system, unless otherwise authorized by the Commission.

(d) The Oklahoma Tax Commission may prescribe forms, schedules, questionnaires, and other materials necessary for administration of 68 O.S. §§ 2808 and 2847, including, but not limited to:

(1) annual returns for railroads, air carriers, and public service corporations;
(2) video services provider certifications;
(3) broadband service provider questionnaires;
(4) mixed-service supplemental schedules;
(5) affiliate and shared-asset disclosure schedules; and
(6) late or incomplete filing penalty response forms.

710:10-18-6. Review of returns by ~~Public Service Section~~Ad Valorem Division

(a) The Ad Valorem Division shall review annual returns and supporting materials received from centrally assessed companies.

(b) The review may include consideration of:

(1) completeness and timeliness of the filing;
(2) whether the company is properly subject to central assessment;
(3) the fair cash valuation to be recommended to the Board;
(4) whether an administrative penalty should be recommended for late or incomplete filing; and
(5) the assessment treatment applicable under 68 O.S. § 2847(C), (D), or (E).

(c) In conducting its review, the Ad Valorem Division may require production of records reasonably necessary to determine classification, fair cash valuation, and assessment treatment, including:

(1) organizational charts, including tax organizational charts and company structure charts, showing ownership and parent, subsidiary, sister-company, affiliate, and other related-entity relationships;
(2) service descriptions;
(3) websites and marketing materials;
(4) customer agreements or tariffs;
(5) technical descriptions of fixed wireless systems;
(6) financial statements;
(7) revenue schedules;
(8) subscriber reports;
(9) asset listings;
(10) federal and state regulatory reports;
(11) sworn affidavits; and
(12) other records reasonably necessary for administration of the Ad Valorem Tax Code.

710:10-18-7. Determination of cable television company status

(a) In determining whether a company is excluded from central assessment as a cable television company, the Ad Valorem Division shall consider the specific legal entity whose return and property are at issue.
(b) The determination shall be based on the totality of the relevant facts and circumstances reflected in the company's filings and supporting records.
(c) In making the determination, the Ad Valorem Division may consider:
(1) the services offered by the company in Oklahoma;
(2) whether cable service is offered on a stand-alone basis;
(3) whether cable service is offered together with internet service, telephone service, or other services;
(4) the manner in which the company markets or holds out its services to customers;
(5) customer agreements, tariffs, or terms of service;
(6) revenue by service line;
(7) subscriber or customer counts by service line; and
(8) any other fact relevant to whether the company is properly treated as a cable television company for purposes of 68 O.S. § 2808.

710:10-18-8. Determination of broadband service provider status

(a) In determining whether a company qualifies as a broadband service provider under 68 O.S. § 2808, the Ad Valorem Division shall consider the specific legal entity whose return and property are at issue.
(b) The determination shall be based on the totality of the relevant facts and circumstances reflected in the company's filings and supporting records.
(c) In making the determination, the Ad Valorem Division may consider:
(1) the services offered by the company in Oklahoma;
(2) whether such services are offered to end-user consumers;
(3) websites, marketing materials, and service descriptions;
(4) customer agreements, tariffs, or terms of service;
(5) revenue by service line;
(6) subscriber or customer counts by service line;
(7) technical descriptions of services provided;
(8) type of equipment used to provide services;
(9) affiliate relationships relevant to service offerings or asset use; and
(10) whether the company claims treatment as a video services provider or claims exclusion as a cable television company or fixed wireless broadband Internet service provider.

710:10-18-9. Classification and assessment-treatment standards

(a) In determining whether a company is subject to central assessment and, if so, the assessment treatment to recommend to the Board for a public service corporation or subclass addressed in 68 O.S. § 2847(C), (D), or (E), the Ad Valorem Division shall consider:
(1) whether the company is a public service corporation;
(2) whether the company is excluded from public service corporation treatment as a cable television company or as a fixed wireless broadband Internet service provider;
(3) whether the company qualifies as a video services provider;
(4) whether the company qualifies as a broadband service provider; and
(5) which assessment treatment under 68 O.S. § 2847(C), (D), or (E) applies.
(b) For purposes of administration, the following assessment treatments may be recommended to the Board:
(1) public service corporation treatment only;
(2) broadband service provider treatment only;
(3) video services provider and public service corporation treatment; or
(4) video services provider and broadband service provider treatment.
(c) A company shall not be recommended for central assessment solely by reason of video-services-provider status if, based on the totality of the relevant facts and circumstances, the company is properly treated as a cable television company.
(d) If a company is a public service corporation and does not qualify for treatment under 68 O.S. § 2847(C) or (E), the company shall be recommended for public service corporation treatment only under 68 O.S. § 2847(D).
(e) If a company is a public service corporation and qualifies as a broadband service provider, but does not qualify for video-services-provider treatment in combination with another centrally assessed classification, the company shall be recommended for broadband service provider treatment only under 68 O.S. § 2847(E). For such company, subsection (E) shall operate as an alternative to subsection (D).
(f) If a company qualifies as a video services provider and is also a public service corporation, but not as a broadband service provider, the fair cash value attributable to video programming services shall be determined under 68 O.S. § 2847(C), and the remaining fair cash value shall be recommended under 68 O.S. § 2847(D).
(g) If a company qualifies both as a video services provider and as a broadband service provider:

(1) the fair cash value attributable to video programming services shall first be determined under 68 O.S. § 2847(C);
(2) that video-programming portion shall be recommended under 68 O.S. § 2847(C); and
(3) the remaining fair cash value shall be recommended under 68 O.S. § 2847(E), provided the company otherwise qualifies as a broadband service provider.

(h) Where a company qualifies both as a video services provider and as a broadband service provider, 68 O.S. § 2847(C) and (E) shall be construed so that both provisions are given effect if reasonably possible. The allocation method set forth in 68 O.S. § 2847(C) shall govern the fair cash value attributable to video programming services, and subsection (E) shall govern the remaining fair cash value otherwise subject to public service corporation treatment.

(i) Except as provided in subsection (g) of this Section, no allocation shall be created between 68 O.S. § 2847(D) and (E) for broadband and non-broadband property of the same company unless authorized by statute or final order of a court of competent jurisdiction.

710:10-18-10. Broadband service provider questionnaire

(a) Any company potentially qualifying as a broadband service provider shall complete the electronic broadband service provider questionnaire in the OkTAP system and provide information sufficient to determine:
(1) the identity of the reporting legal entity;
(2) the services offered by that entity in Oklahoma;
(3) whether those services include fixed or mobile Internet access, Voice over Internet Protocol, or Internet Protocol Television;
(4) whether those services are offered to end-user consumers;
(5) whether the company claims exclusion as a cable television company or fixed wireless broadband Internet service provider;
(6) whether the company also qualifies as a video services provider; and
(7) whether any affiliate provides related services or owns related property used by the reporting company.

(b) The Oklahoma Tax Commission may require the questionnaire to be accompanied by supporting records and schedules.

710:10-18-11. Video services provider certification

Any company claiming or subject to treatment as a video services provider shall file the certification required by 68 O.S. § 2847(C), including:
(1) total gross receipts for the immediately preceding calendar year for both system and Oklahoma values; and
(2) gross receipts derived from video programming services.

710:10-18-12. Mixed-service supplemental schedules

Any company engaged in both video and broadband-related services, or in both covered and excluded service lines, shall file a supplemental schedule showing:
(1) revenue by service line;
(2) subscriber or customer counts by service line;
(3) identification of services offered directly by the reporting company;
(4) identification of shared assets; and
(5) identification of affiliate-owned assets used by the reporting company or reporting-company assets used by affiliates.

710:10-18-15. Fixed wireless exclusion

A company claiming exclusion as a fixed wireless broadband Internet service provider shall establish that it solely offers access to the Internet through a stationary fixed point-to-point connection often requiring direct line of sight between the provider’s transmitter and the end-user consumer’s receiver.