

COMMUNICATIONS ALERT

Oklahoma Court of Civil Appeals Rules Cable Television Companies Are Not Public Service Corporations or Transmission Companies under Oklahoma Ad Valorem Tax Law

In a major victory for cable television companies, the Court of Civil Appeals for the State of Oklahoma has held that Cable One, a cable television company operating in Oklahoma, does not meet the statutory definition of a transmission company and thus is not subject to central assessment. This ruling will result in substantial tax savings for Cable One and establishes an important precedent on an issue that arises in other states as well.

Under Oklahoma's Ad Valorem Tax Code, the "property of all . . . public service corporations shall be assessed annually by the State Board of Equalization."¹ "Public service corporation" means all "transmission companies."² "Transmission company" means any company that owns, leases, or operates for hire a telephone line.³ The statute also provides that cable television companies are not to be considered transmission companies or public service corporations.⁴ Property owned by a public service company may be centrally valued and assessed by the Oklahoma State Board of Equalization ("OSBE") and Oklahoma Tax Commission ("OTC"), whereas property not owned by a public service company is locally valued and assessed by the county assessor of each county in which such property is located.

Beginning in tax year 2013, the OSBE and OTC reclassified Cable One as a public service or public transmission company. The state took the position that because Cable One offered Voice over Internet Protocol service ("VoIP"), this effectively made it a transmission company for purposes of the ad valorem tax. As a result, the state centrally valued and assessed Cable One, resulting in Cable One being taxed at a significantly higher rate.⁵

The Court of Civil Appeals affirmed the District Court ruling that Cable One is a cable television company, subject to local ad valorem assessment. However, it reversed the lower court finding that Cable One was also a transmission company because, by definition, a company cannot be both. The Court found the evidence clearly demonstrated that Cable One is a cable television company and does not meet the statutory definition of transmission company for ad valorem taxation purposes.

¹ Okla. Stat. Ann. tit. 68, § 2847(A).

² Okla. Stat. Ann. tit. 68, § 2808(A)(1).

³ Okla. Stat. Ann. tit. 68, § 2808(A)(3).

⁴ Okla. Stat. Ann. tit. 68, § 2808(B).

⁵ Case No. 113,818, *Cable One, Inc. v. Oklahoma State Board of Equalization, and Oklahoma Tax Commission*, Appeal from the District Court of Oklahoma County, Oklahoma (Okla. Civ. App. filed Mar. 24, 2017). During the tax years directly at issue, Cable One was a wholly-owned subsidiary of The Washington Post Company.

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The court's holding on appeal provides a clearer, more consistent interpretation of Oklahoma ad valorem tax law. The case has been remanded to the trial court for calculating the amount owed to Cable One due to the improper assessment.

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If you have any questions about the issues addressed in this memorandum or if you would like a copy of any of the materials mentioned, please do not hesitate to call or email Chérie R. Kiser, 202.862.8950 or ckiser@cahill.com.