

February 26, 2001

Mr. James O. Clark, P.E.
General Manager
Columbia Power and Water System
P.O. Box 379
Columbia, Tennessee 38402

Via Fax (931) 388-5287

Dear Jim:

You requested information on in lieu of tax payments to city government by utility systems. Tennessee statutes authorize tax equivalency payments for telecommunications, gas, electric, water and wastewater, parking facilities, and appurtenances including supply and distribution systems, reservoirs, dams, sewage treatment and disposal works and generating plants.

- TCA 7-52-404 provides that tax equivalent payments for telecommunications are to be determined in the manner established for electric systems (TCA 7-52-301).
- TCA 7-39-403 provides the formula or method for determining the tax equivalency payments for a municipal gas system.
- TCA 7-52-304 provides the formula or method for determining the tax equivalency payments for a municipal electric system.
- TCA 7-34-115 (a)(9) provides authorization for tax equivalency payments for water and wastewater. This statute does not, however, provide a formula or method for determining the tax equivalency payment for water and wastewater. Following is the exact language of that statute:

“If the governing body of the municipality by resolution so requests, payments to the municipality in lieu of ad valorem tax on the property of the public works within the corporate limits of the municipality not to exceed the amount of taxes payable on privately owned property of similar nature.”

MTAS discussed this matter with the State of Tennessee Municipal Audit, and was advised that cities should use the same method for determining water and wastewater tax equivalency payments as is used for determining such payments for a municipal gas system.

MTAS legal consultant, Sid Hemsley advised that TCA 7-34-115 (a) (9) is the statute on water and wastewater and that absent a formula or method in this statute, a city can use some “reasonable” method for determining such payments that are not to “exceed the amount of taxes payable privately owned property of similar nature.” The term “public works” as defined in TCA 7-34-102 means:

“any one or combination of two or more of the following: water, sewerage, gas or electric heat, light or power works, plants and systems or parking facilities, together with all parts thereof and appurtenances thereto including, but not limited to, supply and distribution systems, reservoirs, dams, sewage treatment and disposal works and generating plants.”

Article II, Section 28 of the Constitution of the State of Tennessee provides for utility property classification at 55 percent.

Here's the commonly accepted method of calculation:

- I = city tax rate
- II = appraisal ratio
- III = equalized tax rate (items I x II)
- IV = net fixed asset (book value)
- V = inventories and construction in progress (book value)
- VI = net asset book value (items IV +V)
- VII = utilities tax ratio (55%)
- VIII = taxable assessed value (item VI xVII)
- IX = In Lieu of Taxes (items III x VIII divided by 100)

MTAS surveyed a few cities to determine how they handle in lieu of tax payments for water and wastewater systems. The results are attached.

I don't know if these will be of interest or not, but I am also attaching a 1997 MTAS legal opinion and proposed legislation introduced recently. Both these documents address the financial operations of utilities.

Please let me know if you need additional information on this matter.

Sincerely,

Sharon Rollins, P.E.
Manager of Technical Consulting

attachments

MTAS SURVEY RESULTS
February, 2001

| CITY | Does the Water/Sewer Utility Pay In Lieu of Tax Payments? | If Yes, Basis for the Payment |
|-----------------|---|---|
| Chattanooga | No- water company is privately owned; sewer city owned but does not pay in lieu taxes | N/A |
| Clarksville | Yes | Formula above |
| Columbia | Yes | Formula above except assets are based on the current appraised value of real estate only. |
| Jackson | Yes | Based on sales revenue. See attached. |
| Johnson City | Yes | (Not available) |
| Knoxville | Yes | Formula above |
| Memphis | Yes | (Not available) |
| Murfreesboro | No | N/A |
| Metro Nashville | Yes | \$4 M/year as set by ordinance |

