



2013-045

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Emergency Telephone Service –
Emergency Management Communications –
Service Charges – Districts

Under the provisions of section 11-98-5.2 of the Code of Alabama, the Mobile County Communications District (“District”) should calculate the base distribution amount using the increased rate for emergency telephone service charges agreed upon by the District on April 19, 2012.

Dear Mr. Wasden:

This opinion of the Attorney General is issued in response to your request on behalf of the Mobile County Communications District.

QUESTION

Under the provisions for section 11-98-5.2 of the Code of Alabama, how should the Mobile County Communications District calculate the base distribution amount given that the District increased its rate for emergency telephone service charges on April 19, 2012?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that the Mobile County Communications District (“MCCD”) was created in 1984 and has been operating continuously since that time answering emergency 911 calls. On April 19, 2012,

the MCCD Board voted to increase its rate of emergency telephone service charges. Currently, the emergency service charge is collected and remitted monthly by the individual telephone companies to the emergency communications district, in this case MCCD.

You informed this Office that the amount remitted is generally arrived at by multiplying the emergency service charge by the number of businesses and/or residential landlines subscribed to by a particular customer within the emergency communications district. Because Act 2012-293 substantially revised chapter 98 of title 11 of the Code and created section 11-98-5.2, you now seek clarification regarding how section 11-98-5.2 should be interpreted.

Section 11-98-5.2(b)(3) of the Code states, in pertinent part, as follows:

The term base distribution amount, as used in this section with respect to any district with a functioning 911 system as of September 30, 2011, and except as otherwise provided in this subdivision and subdivision (4), means the highest dollar amount per annum of emergency telephone service charges, excluding any fees received from the CMRS Fund, if any, received by the district during the five prior consecutive fiscal years ending on September 30, 2011; provided, that, if the district first levied any such service charge, or if the district by vote of the commissioners of the district, during the fiscal year ending on September 30, 2011, or seven months thereafter, increased the rate of the charge effective on or before January 1, 2013, then the total amount of the emergency telephone service charges with respect to the fiscal year ending September 30, 2011, shall be deemed to be the amount that would have been collected had the increased rate been in effect for the entire fiscal year ending September 30, 2011. Any vote of the commissioners authorizing an increase in fees under the preceding sentence may be contingent upon the enactment of this bill. No adjustment shall be made under the preceding sentence to take into account any increase in an emergency service charge adopted by a district after January 1, 2012, if such district shall have otherwise increased its emergency service charge since January 1, 2011

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000). Section 11-98-5.2 of the Code states that it seeks the base distribution to be the highest dollar amount per annum of emergency service charges for the previous five consecutive years. In an effort to clarify this statement and make sure that the highest dollar amount is used, the statute further states that if the rate is increased at any time up to seven months after September 30, 2011, then that increased rate should be used and calculations based on the higher rate for the entire fiscal year.

Based on the information you provided this Office, MCCD increased its rate within seven months following September 30, 2011. Accordingly, it is the opinion of this Office that MCCD should calculate its base distribution amount as the product of the increased rate of emergency service charge, multiplied by the total number of telephone landlines for which emergency service charges were remitted to MCCD in the fiscal year ending September 30, 2011.

CONCLUSION

Under the provisions of section 11-98-5.2 of the Code, the Mobile County Communications District should calculate the base distribution amount using the increased rate for emergency telephone service charges agreed upon by the District on April 19, 2012.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE

Attorney General

By:



BRENDA F. SMITH

Chief, Opinions Division