

5. "Do 'fixed monthly charges' fit under the definition of 'other charges' as these charges are unrelated to the amount of gas or electricity used or delivery or transmission thereof?"

Response: The rule differentiates between "fixed monthly charges" in subsection (d) and "other charges" in subsection (e), therefore they are not identical terms.

6. "Shouldn't the fixed monthly charge be exempt from sales tax regardless of usage under subpart (e)?"

Response: No. The rule differentiates between a "fixed monthly charge" and "other charges" in subsections (d) and (e).

7. "I have previously visited with the Oklahoma Tax Commission pertaining to a customer that was charged municipal taxes while the customer did not reside within the municipal limits. I was told the Oklahoma Tax Commission had no jurisdiction over the matter. I assume this was correct?"

Response: Since the Tax Commission is not the person charging the sales tax, we cannot stop the charging of the tax if it is being charged incorrectly. The utility that is charging the tax must cease charging the tax on the customer's bill. The customer should contact the city and get a letter from the city that he in fact lives outside the city limits of the city and forward it to the utility with a request for a refund of any tax paid incorrectly.

This response applies only to the circumstances set out in your request of July 31, 2003. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION



Michael G. Pillow
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