

**ORDINANCE
70905**

BOARD BILL NO. 215FS INTRODUCED BY: ALDERMAN JACK COATAR

1 An ordinance submitting to the qualified voters of the City of St. Louis a gross receipts tax to
2 be imposed on telecommunications providers and fiber network providers as set forth herein
3 **that are not otherwise currently subject to such taxes**; providing for an election to be held
4 therefore and the manner of voting thereat; and, upon passage of said ballot measure, an
5 amendment to City of St. Louis Ordinance 67717 as codified in Section 23.34.020 of the
6 Revised Code of the City of St. Louis and Sections 23.34.010 through 23.34.030 of the
7 Revised Code of the City of St. Louis reflecting gross receipts tax to be imposed as approved
8 by the voters of the City of St. Louis.

9

10 **WHEREAS**, the City of St. Louis desires to enact a tax structure that will encourage
11 development of fiber networks to provide service to under-served areas of the City.

12

13 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

14

15 **SECTION ONE.** The following amendment to Ordinance 67717 and Sections 23.34.101
16 .010 through 23.34.030 of the Revised Code of the City of St. Louis is hereby proposed and
17 ballot language to be submitted to the voters of the City of St. Louis to accomplish this

1 amendment, which shall be voted upon at an election to be held as hereinafter provided, is set
2 forth herein. The said amendment is in words and figures as follows:

3 23.34.010-Telecommunications Providers and Fiber Network Providers to pay tax. Every
4 entity now or hereafter engaged in a general telecommunications business in the City,
5 providing telecommunications, telecommunications exchange, or local, toll, or long distance,
6 telephone service to its customers with a service or billing address within the St. Louis City
7 Limits (“Telecommunications Providers”) shall pay to the city a tax as hereinafter provided in
8 this chapter.

9 Every entity now or hereafter engaged in providing fiber networks **to customers using fiber**
10 **networks**, built whole or in part in the City’s public right of way, who are not subject to
11 franchise fees, **or gross receipts taxes, to customers using fiber networks** (“Fiber Network
12 Providers”), shall pay to the city a tax as hereinafter provided in this chapter.

13 Telecommunications Providers and Fiber Network Providers shall pay the City a tax as
14 hereinafter provided, except that no entity already required to pay a franchise fee, **or gross**
15 **receipts tax**, or linear foot fees shall also be required to pay a gross receipts tax hereunder.

16 This ordinance is not intended to apply to Small Wireless Facilities as defined in 67.5112(19),
17 RSMo. 23.34.020 Gross receipts tax

18 Every Telecommunications Provider and Fiber Network Provider shall pay to the City a tax
19 equaling seven and one half percent of the gross receipts of any such company obtained from
20 customers or from other use of its fiber networks for any services there provided, except such
21 receipts as represent charges for message rate toll, or long distance, telephone service, charges

1 for message rate interzone telephone service, charges for exclusive interstate service of any
2 kind, charges for Morse, telegraph or radio program transmission facilities, or for other
3 services furnished exclusively and permanently in connection with services extending beyond
4 the boundaries of the City, charges for the billing and collecting for telegrams, charges for the
5 sale of telephone directories, charges for Yellow Pages advertising, charges for the rental of
6 plant facilities or other property not currently used by any such company in furnishing its
7 telephone services, and charges which combine both receipts which are herein taxed and
8 which are herein excepted in all cases in which the demonstrable cost to any such telephone
9 company in making a separation between the revenues taxed and those excepted shall exceed
10 the evident revenue to be derived from the City hereunder. "Gross receipts" does not include
11 an amount equal to all discounts, credits, refunds, overcharges, or overpayments, sales taxes
12 and uncollectible accounts actually charged off, returned, or given credit for by such
13 telephone company to its subscribers during the period for which the return is made, and all
14 discounts, credits, refunds, overcharges, or over payments, sales taxes, and uncollectible
15 accounts actually charged off, returned or given credit for by such telephone company to its
16 subscribers in a prior return period but not previously claimed as a deduction from prior
17 reported gross receipts. Any such tax shall not be applicable to gross receipts from charges for
18 internet access only, as that term is used in the Federal Internet Freedom Act, P.L. 105-277, as
19 amended. Neither this section, nor any provision hereof, shall be deemed or construed as a
20 waiver, relinquishment, creation, expansion, modification or termination of any rights which
21 the City may already have with respect to any Telecommunications Provider and Fiber
22 Network Provider, nor shall it be deemed or construed to alter, amend or modify in any way

1 the settlement agreement entered into between the City of St. Louis and Southwestern Bell
2 Telephone Company and its successors on September 3, 1998. If any entity is not required to
3 pay, or is exempt from, gross receipt tax, such entity may still be subject to the linear foot fee,
4 as codified in Chapter 23.64 of the Revised Code of the City of St. Louis.

5 23.34.030 Statement of gross receipts. Every Telecommunications Provider and Fiber
6 Network Provider on or before the second last day of each month shall file with the
7 Comptroller a verified statement of its gross receipts upon which the gross receipts tax is laid
8 for the next preceding month, and shall pay the tax at the same time as the filing of the report.

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10 **SECTION TWO.** The following ballot proposition is hereby proposed and submitted to the
11 voters of the City of St. Louis and shall be voted upon at an election to be held as hereinafter
12 provided. The said ballot measure is in words and figures as follows: “Should Chapter 23 of
13 the Revised Code of the City of St. Louis be amended to impose a gross receipts tax of seven
14 and one half percent of the gross receipts of revenue obtained from Telecommunications
15 Providers, which are and include every entity now or hereafter engaged in a general
16 telecommunications business in the City, providing both telecommunications,
17 telecommunications exchange, or local, toll, or long distance to its customers with a service or
18 billing address within the St. Louis City limits; and Fiber Network Providers, which are and
19 include every entity now or hereafter engaged in providing fiber networks, built whole or in
20 part in the City’s public right of way, which are not internet or video service providers subject
21 to franchise fees, to customers and other users of fiber networks ?

1 **SECTION THREE.** The foregoing proposed ballot measure shall be submitted to the
2 qualified voters of the City of St. Louis at the next annual election to be held on April 2, 2019,
3 and if said ballot measure shall receive in favor the votes of a majority of the qualified voters
4 voting at such election for or against said proposed ballot measure, such measure shall be
5 adopted immediately and become a part of the Revised Code of the City of St. Louis from the
6 date of said election and the tax imposed shall be authorized and become effective
7 immediately. Qualified voters of the City of St. Louis may at the election aforesaid vote a
8 ballot substantially in the following form:

9 **OFFICIAL BALLOT**

10 Instructions to voters:

11 To vote in favor of the proposition submitted upon this ballot, place an “X” in the square
12 opposite the word “Yes” and to vote against the proposition submitted on this ballot, place
13 and “X” in the square opposite the word “No”.

14 The ballot measure shall appear on the ballot substantially as follows:

15 Yes ___ No ___

16 Ballot measure: “Should Chapter 23 of the Revised Code of the City of St. Louis be amended
17 to impose a gross receipts tax of seven and one half percent of the gross receipts obtained
18 from Telecommunications Providers, which are and include every entity now or hereafter
19 engaged in a general telecommunication business in the City, providing telecommunication,
20 telecommunications exchange, or local, toll, or long distance, telephone service to its
21 customers with a service or billing address within the St. Louis City limits; and Fiber

1 Network Providers, which are and include every entity now or hereafter engaged in providing
2 fiber networks, built whole or in part in the City’s public right of way, which are not internet
3 or service providers subject to franchise fees, to customers and other users of fiber networks?
4

5 **SECTION FOUR.** The Board of Election Commissioners shall provide the ballots or voting
6 machines or both and conduct the election and shall ascertain and certify the result thereof
7 according to the law. If voting machines are used, the aforesaid “OFFICIAL BALLOT” shall
8 be placed or posted on the said voting machines wherever said machines are used under the
9 direction of the Board of Election Commissioners for the City of St. Louis and according to
10 law.

11

12 **SECTION FIVE.** Upon the approval of this Ordinance, it shall be published in the City
13 Journal, the official publication of the City of St. Louis, Missouri. Proof of the publication of
14 this Ordinance shall be made by affidavit of the City Register, and such affidavit shall be filed
15 in the office of the City Register and a copy of such publication shall be attached thereto.

16

17 **SECTION SIX.** If the ballot measure set forth herein is approved by a majority of the
18 qualified voters of the City of St. Louis, and if any provision of the same is subsequently held
19 invalid by a court of competent jurisdiction, any entities which would have otherwise been
20 required to pay a linear foot fee pursuant to Chapter 23.64 of the Revised Code of the City of

1 St. Louis shall remain obligated to pay such linear foot fee pursuant to the laws of the City of
2 St. Louis.

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4 **SECTION SEVEN.** This being an ordinance providing for the submission of a question to
5 the voters, it is hereby declared to be an emergency ordinance as provided by Article IV,
6 Section 20 of the Charter of the City of St. Louis, and shall be effective immediately upon
7 approval by the Mayor or its approval over his or her veto.