



Audit of Utility Franchise and Other Fees

September 26, 2023

Mark S. Swann, City Auditor

Mayor

Eric Johnson

Mayor Pro Tem

Tennell Atkins

Deputy Mayor Pro Tem

Carolyn King Arnold

Council Members

Adam Bazaldua

Paula Blackmon

Zarin D. Gracey

Cara Mendelsohn

Jesse Moreno

Omar Narvaez

Jaime Resendez

Paul E. Ridley

Jaynie Schultz

Kathy Stewart

Chad West

Gay Donnell Willis



Table of Contents

- Executive Summary 3**
- Audit Results 4**
 - Summary of Additional Franchise and Other Fee Audits 4
- Appendix A: Background and Methodology..... 5**
 - Background..... 5
 - Avenu Insights & Analytics, LLC, Contract 5
 - Methodology 5
 - Major Contributors to the Report 6
- Appendix B: Management’s Response..... 7**

Executive Summary

Objective and Scope

The audit objective was to determine whether franchise and other fee collections required by Federal, State of Texas, and City of Dallas regulations were properly calculated by franchisees. Also, the Office of the City Auditor validated the required 25 percent contingency fees for money received by the City because of audit claims.

The scope included franchise and other fee collections totaling \$176 million between July 1, 2011, and September 30, 2018. The City collected \$698 million in franchise fees for the seven fiscal years 2012 through 2018.

Recommendations

No recommendations are associated with this report.

Background

The City of Dallas manages many different types of utilities that are required to provide franchise and other fee-collection services to the residents and businesses of the City. The utilities serving the City include energy resources like natural gas and electricity and infrastructure utilities such as access lines, cables, rights of way, and service franchisees.

Federal and State regulations and contractual agreements between the City and utility franchisees require periodic payment to the City. To ensure utility payments are provided to the City accurately and timely, the Office of the City Auditor, in conjunction with other City departments and the contractor Avenu Insights & Analytics, LLC, performed audits of franchisees to determine fees are correctly calculated.

Observed Conditions

The Avenu Insights & Analytics, LLC's reviews resulted in the City receiving \$1,996,583 in additional franchise fees and other adjustments and \$332,320 in additional Public, Educational, and Governmental Access fees, or total recoveries of \$2,328,903.

The contract with Avenu Insights & Analytics, LLC, required a 25 percent contingency fee for money received by the City because of their reviews. The City paid Avenu Insights & Analytics, LLC, \$582,226.

Audit Results

Summary of Additional Franchise and Other Fee Audits

Avenu Insights & Analytics, LLC, formerly known as MuniServices, LLC, contracted to perform audits of franchise and other fee collections required by Federal, State, and City of Dallas regulations governing utilities on behalf of the Office of the City Auditor. Avenu Insights & Analytics, LLC, performed one or more reviews on the following franchisees:

- Atmos Energy Company
- Southwestern Bell Telephone Company
- Time Warner Cable Texas, LLC
- Time Warner Telecom of Texas, LLC
- XO Communications Services Incorporated
- MCIMetro Access Transmission Services, LLC
- Spectrum Gulf Coast, LLC (a subsidiary of Charter Communications)
- Frontier Communications Corporation

Avenu Insights & Analytics, LLC's validated payments for sample periods with at least three months of activity during the contract period. The reviews included payments to the City of Dallas, with separate identification of \$160,077,235, in franchise and related fees and Public, Educational, and Governmental Access (PEG) fees totaling \$16,246,861.

The Avenu Insights & Analytics, LLC's reviews resulted in the City receiving \$1,996,583 in additional franchise fees and other adjustments and \$332,320 in additional Public, Educational, and Governmental Access fees, or total recoveries of \$2,328,903. Also, identified corrections in calculations and methodologies for franchise and other fees prospectively continue to maximize collections.

The contract with Avenu Insights & Analytics, LLC, requires a 25 percent contingency fee for money received by the City because of their reviews. The City paid Avenu Insights & Analytics, LLC, \$582,226. The Office of the City Auditor validated invoices provided for the work they performed.

Appendix A: Background and Methodology

Background

The City of Dallas manages many different types of utilities that are required to provide franchise and other fee-collection services to the residents and businesses of the City. The utilities serving the City include energy resources like natural gas and electricity and infrastructure utilities such as access lines, cables, rights of way, and service franchise fees.

Federal and State regulations and contractual agreements between the City and utility franchisees require periodic payment to the City. To ensure utility payments are provided to the City accurately and timely, the Office of the City Auditor, along with other City departments and the contractor Avenu Insights & Analytics, LLC, performs compliance audits.

Avenu Insights & Analytics, LLC, Contract

The City of Dallas requested and received a request for proposals in 2013 for auditing utilities. Of the three vendors evaluated, MuniServices, LLC was selected, and placed under contract. The agreement was assigned to Avenu Insights & Analytics, LLC, during the contract period.

The contract was active for nine years between February 26, 2014, and February 25, 2023. The purpose of the agreement was for Avenu Insights & Analytics, LLC, to perform audits of franchise fees and other payments from franchisees that provide natural gas, electricity, cable or video, and certified telephone services to the citizens of the City.

The City agreed to pay Avenu Insights & Analytics, LLC, 25 percent of revenue on monies actually recovered and received by the City for their audits, validating the accuracy of franchise fee calculation, reporting, and remittance of utility payments.

Avenu Insights & Analytics, LLC, is not entitled to any compensation resulting from any lawsuits filed by the City of Dallas related to potential payment of franchise fees for streaming services such as Netflix, Inc., Hulu, LLC, Disney DTC, LLC, and others.

Methodology

The audit methodology included:

1. Contracted with a franchise fee audit specialty firm, Avenu Insights & Analytics, LLC.
2. Interviewing personnel from other departments.
3. Reviewing the Texas Utilities Code for electricity providers, natural gas providers, Right of Way for telecommunications providers, and state-issued cable and video franchisees.
4. Performing liaison work between Avenu Insights & Analytics, LLC, and City departments to ensure reporting accuracy.

To accomplish our audit objective, the Office of the City Auditor coordinated the identification of billing addresses from each utility. The addresses were matched to the City of Dallas

properties, as provided by City of Dallas GIS staff. The Office of the City Auditor coordinated with the GIS and other departments to ensure those addresses were within city limits and provided the information to Avenu Insights & Analytics, LLC, for their compliance reviews.

The Office of the City Auditor conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major Contributors to the Report

MuniServices LLC

Christopher W. Wills, Senior Audit Manager

Office of the City Auditor

Frank Mayhew, CFE, CIA, CISA – Engagement Manager

Lee Chiang CIA, CISA – Retired

Appendix B: Management's Response

Memorandum



DATE: September 27, 2023

TO: Mark S. Swann – City Auditor

SUBJECT: Response to Audit of Utility Franchise and Other Fees

This letter acknowledges the City Manager's Office and the Budget & Management Services Office received the *Audit of Utility Franchise and Other Fees*.

We appreciate the professionalism and quality of work that Avenu Insights & Analytics, LLC and your staff demonstrated throughout this engagement.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.C. Broadnax', written over a circular stamp or seal.

T.C. Broadnax
City Manager

C: Genesis D. Gavino, Chief of Staff
Jack Ireland, Chief Financial Officer
Janette Weedon, Director, Office of Budget & Management Services