



## **FAQ for Utility License Law, Portland City Code 7.14**

Updated June 10, 2013

### **Q1: Where can I find the Utility License Law (Portland City Code 7.14) and its administrative regulations?**

A: You can review the Utility License Law and its administrative regulations at the following links:

Utility License Law (PCC 7.14.005 – 7.14.130)

<http://www.portlandonline.com/auditor/index.cfm?c=28809>

Administrative Regulations (UTL-3.01 – 3.06)

<http://www.portlandonline.com/auditor/index.cfm?c=51848>

### **Q2: What is the Utility License Law and who does it apply to?**

A: The Utility License Law is a tax on utilities operating and earning revenue within the City of Portland. PCC 7.14.020; 7.14.040. If you are a “utility” as defined in PCC 7.14.040, supplying services and earning revenue from those services within the City of Portland, then the Utility License Law applies. The scope includes any communications company offering wireline voice services to customers in Portland, such as resellers and VoIP providers.

### **Q3: What are the obligations under the Utility License Law?**

If the Utility License Law applies to your business, you must obtain a utility license and renew the license annually. The utility license is valid from January 1 through December 31 of each calendar year, and there is no cost to apply for the license.

Unless otherwise authorized by the City, licensees must also file reports after the end of each quarter stating their gross revenues for that period and pay the license fee set forth in PCC 7.14.060.

### **Q4: Which types of providers are exempt from the Utility License Law?**

A: The Utility License Law does not apply to wireless services, phone cards, or software providers. If you do not earn revenues within Portland, the law may not apply to you. However, if you are a “utility” and are marketing or seeking customers in Portland, you are required to obtain a utility license, file regular reports, and pay a utility tax based on your revenues within Portland.

### **Q5: Our company has a franchise. Does it also need to have a Utility License?**

A: Although most franchisees are subject to the Utility License Law, franchisees may not need utility licenses so long as the revenue base for the calculation of the franchise fee is equal to or greater than the revenue base for calculating the utility license fee. *See* PCC 7.14.050.B and 7.14.070. Please contact our office to be certain.

**Q6: We have several affiliates and subsidiaries. If one of our affiliates or subsidiaries pays the Utility License Fee (or a franchise fee), are the others exempt?**

A: No. Utility licenses are issued to specific entities and do not cover affiliates or subsidiaries. Each entity supplying utility services must obtain a utility license. It would be unfair if Company A offers all of its utility services through one entity and pays the utility license fee on all services, but we allowed Company B to offer a tiny amount of service through an affiliate with a utility license, then offer the same services as Company A through another affiliate that does not have a license or pay the utility license fee.

**Q7: We only provide internal services to other subsidiaries and affiliates of our parent company. Does the Utility License Law apply to us?**

A: So long as you are not a separate subsidiary or affiliate supplying utility services and generating revenue in Portland within the meaning of the Code, then the Utility License Law would not apply to you.

**Q8: We provide Voice over Internet Protocol (VoIP). Does the Utility License Law apply to us?**

A: Yes. "Cable Communications Utility" is a broadly defined term and includes VoIP and resellers. *See* Code 7.14.040.B and Administrative Rule UTL-3.05.

**Q9: We provide VoIP. Are we excluded because of the Federal Internet Tax Freedom Act (ITFA)?**

A: No. VoIP providers are not encompassed within the scope of the IFTA, as indicated in the statutory definitions. *See*, IFTA Sec. 1105(5)(D), 47 USC § 151 note.

**Q10: We are an internet service provider. Does the Utility License Law apply to us?**

A: If your company only provides Internet Access in Portland within the meaning of the federal Internet Tax Freedom Act (ITFA), it is exempt from Portland's Utility License Law and does not need to obtain a utility license or pay utility license fees. However, the Internet Tax Freedom Act does not exclude taxable utility services, such as voice or similar services using Internet Protocol or successor protocols, incidental services, or internet, when charges for those services are aggregated as part of a bundle and the untaxable portion is not separately stated or reasonably identifiable from the remaining portion of the bundle. *See*, ITFA Sec. 1106(a), 47 USC § 151 note.

**Q11: We provide utility services subject to the Utility License Law, as well as services that are not subject to the Utility License Law, such as internet services. Does the Utility License Law apply to us?**

A: Yes. You should obtain a license and will be required to pay utility license fees on your gross revenues earned in Portland. The report forms provide places to deduct revenues for services not subject to the Utility License Law. Please see Q10 regarding bundled services.

**Q12: We are only resellers of an incumbent phone company's lines. Does the Utility License Law apply to us?**

A: Yes. "Cable Communications Utility" is a broadly defined term and includes resellers and VoIP. *See* Code 7.14.040.B and Administrative Rule UTL-3.05.

**Q13: We do not own any facilities in Portland public streets. Does the Utility License Law apply to us?**

A: Yes. The Utility License Law is a tax upon any utility supplying utility services and earning revenues within the City of Portland. PCC 7.14.040. Whether you are subject to the Utility License Law is separate and unrelated to whether or not you occupy the right-of-way.

**Q14: We are a Long Distance reseller. Does the Utility License Law apply to us?**

A: Yes. "Cable Communications Utility" is a broadly defined term and includes resellers and VoIP. *See* PCC 7.14.040.B and Administrative Rule UTL-3.05.

**Q15: We only provide services to clients such as hospitals, campuses, institutions, governmental entities, or non-profits. Does the Utility License Law apply to us?**

A: Yes. These are telecommunications services in Portland and are subject to the law.

**Q16: We only provide service to the United States government and its agencies. Do we have to apply for a Utility License?**

A: Yes. Telecommunications and other utility services supplied to the U.S. government and its agencies are subject to the law.

**Q17: We do not offer any end-user services. Does the Utility License Law apply to us?**

A: It is possible to offer utility services in Portland without offering end-user services (wholesale services, for example). If you supply utility services in Portland and earn revenue in Portland, then the law applies. If you do not supply utility services in Portland, then the Utility License Law does not apply to you.

**Q18: We have a switch in Portland to connect and interconnect traffic of other carriers. Does the Utility License Law apply to us?**

A: Perhaps. We suggest you review your technology against the definition of a “Utility,” *see* PCC 7.14.040(I), with your tax and legal advisors.

**Q19: What is the rate we pay under the Utility License Law?**

A: Please *see* PCC 7.14.060 for a list of companies and the tax rates. Generally, companies pay 5% of their gross revenues earned in Portland as their utility license fees.

In November 2012, the Portland City Council approved an amendment to the Utility License Law to equalize the utility tax assessed on all wireline providers. As a result of this amendment, the tax rate paid by incumbent local exchange carriers (ILECs) providing “telecommunications” services changed from 7% of local exchange services to 5% of gross revenues, similar to all other wireline providers. In Portland, the two ILECs that are affected by this change are CenturyLink (formerly Qwest) and Frontier (formerly Verizon). *See* PCC 7.14, as amended by Ordinance No. 185756.

The City Code caps the City water and sewer utility tax rates to transition those utilities’ tax rates down to 5% of gross revenues. PCC 7.14.065.

**Q20: We have a utility license, but currently don’t have any customers or earn any revenues within Portland. Do we still need to file a quarterly report?**

A: Yes. If you have an active, valid license, you are required to file reports each quarter concerning your revenues earned in Portland.

**Q21: We are a reseller and the incumbent telephone company includes the utility license tax in its bill to us. Isn’t that double taxation?**

A: No, this is not double taxation. The Utility License Law applies to you. The Utility License Law is a tax the City of Portland places on utilities, including resellers. The incumbent telecommunications utility is separately subject to the Utility License Law and pays taxes based upon its gross revenues earned within the City.

**Q22: We recently submitted a payment to the City of Portland and it was returned to us. Why?**

A: In 2011, the City of Portland implemented a change to the payment schedule for certain utility license holders. We implemented this rule to increase administrative efficiency for small payments, and the City has notified all companies who are subject to this change. Under this rule, certain companies who typically submit payments of \$100 or less per quarter may pay its utility license fees on an annual basis instead of each quarter. Please note that we still ask that you send a report each quarter, but payment for the previous calendar year will be due once a year, on February 15. *See* Administrative Rule UTL-3.03.

**Q23: Who can I contact if I have more questions?**

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