

## EXHIBIT A

Portland City Code Chapter 7.14, Utility License Law, is amended as follows:

1. Subsection 7.14.040.D “Gross Revenue” is amended as follows:

**D. “Gross Revenue”** means any revenue earned within the City, after adjustment for the net write-off of uncollectible accounts, from the sale of electrical energy, gas, district heating or cooling, or water, or sewage disposal and treatment service, ~~and for use, rental, or lease of operating facilities of the utility engaged in such business,~~ from the furnishing or sale of communications or associated services by or from a telecommunications or cable communications business, or any revenue earned by a Utility within the City from the use, rental, or lease of operating facilities, or any revenue earned within the City for supplying electricity or natural gas. Gross revenues do not include proceeds from:

1. The sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks, or sales at wholesale by one utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer; or
2. Public purpose charges collected by a utility selling electrical energy or gas. For purposes of this Subsection, “public purpose charges” means a charge or surcharge to a utility customer that the utility is required or authorized to collect by federal or state statute, administrative rule, or by tariff approved by the Oregon Public Utility Commission, that raises revenue for a public purpose and not as compensation for either the provision of utility services or for the use, rental, or lease of the utility’s facilities within the City. “Public purpose” includes energy efficiency programs, market transformation programs, low-income energy efficiency programs, carbon offset programs and other types of programs designed to benefit utility customers within Oregon and the City.
3. Revenues associated with Universal Service funding requirements under 47 U.S.C. § 254 (2012) or revenues associated with taxes for emergency communications under ORS Chapter 403 (2011).
4. The calculation of gross revenues for telecommunications utilities for purposes of the Utility License Fee shall not include revenues from any tariffed or non-tariffed charge or service applicable to any connection, circuit or equipment which brings an E9-1-1 call to the appropriate responding Public Safety Answering Point, regardless of where the E9-1-1 call is originated.

2. Subsection 7.14.040.I “Utility” is amended as follows:

**I. “Utility”** means the business of supplying electrical energy, gas, district heating or cooling, water, sewage disposal and treatment, or cable, telecommunications, or other services through or associated with telephone or coaxial cable, and other operations for public service, ~~but “Utility” does not include transportation service, or railroad operations, or services otherwise licensed under this Title.~~

3. Section 7.14.110 "Civil Penalties" is amended as follows:

**7.14.110 Civil Penalties.**

**A.** The Director may assess civil penalties for any of the following violations of the Utility License Law:

1. Any failure to file a license application at the time required under the Utility License Law;
2. Any failure to pay the utility license fee when due;
3. Any failure to file a utility license fee report when due;
4. Any failure to provide or make available all books, financial records, papers, invoices, documents, data and related information when required by the Director; or,
5. For any person to make any false statement on any license application or utility license fee report or to provide false information in any investigation or audit conducted pursuant to the Utility License Law.

**B.** The Director may assess civil penalties for any violation under Subsection 7.14.110 A. of the greater of either a minimum of \$500 per occurrence or up to two percent (2%) of the utility's gross revenues subject to the Utility License Law for the period during which the violation occurred.

**C.** The Director may assess a civil penalty of \$500 if a person fails to file a reporting form as required under Section 7.14.080.

**DC.** In assessing civil penalties under this Section, the Director shall produce a written decision, identifying the violation, the amount of the penalty, and the basis for the decision. In making such determination, the Director shall consider the following criteria:

1. The extent and nature of the violation;
2. Any benefits to the licensee and any impacts to the City or the general public, financial or otherwise, resulting from the violation;
3. Whether the violation was repeated and continuous, or isolated and temporary;
4. Whether the violation appeared willful (characterized primarily by substantial acts of commission) or negligent (characterized primarily by substantial acts of omission);
5. The magnitude and seriousness of the violation;

6. The City's costs of investigating the violation and correcting or attempting to correct the violation; and,

7. Any other factors the Director deems relevant in the particular case.

E. The Director may impose civil penalties under this Section only after having given written notice of the potential for assessment of civil penalties identifying the violation serving as the basis for the assessment.

DF. The Director may waive or reduce any civil penalty for good cause, according to and consistent with written policies.