

ORDINANCE NO. 96-07

AN ORDINANCE AMENDING ORDINANCE NO. 96-06,
IMPOSING A UTILITY REVENUE TAX OF FIVE PERCENT UPON
PROVIDERS OF TELEPHONE, GAS, AND ELECTRIC ENERGY
SERVICES.

Preamble

A. The City of Wendover, Tooele County, Utah is authorized by U.C.A. Section 10-1-203 to raise revenue by license fees and taxes upon businesses within the City.

B. The City is authorized by U.C.A. Section 11-26-1, et. seq., to raise revenue by levy and collection of license fees and taxes based upon the gross revenue of public utilities and others engaged in the business of supplying telephone service, gas, or electric energy service with the City.

C. The City finds that it is in the best interest of the City and its citizens that revenue be raised by levy and collection of a license tax equal to five percent (5.0%) of the gross revenues of persons engaged in the business of supplying telephone service, gas, or electric energy service within the City.

D. On October 17, 1996 the City passed Ordinance No. 96-06 with an effective date of November 11, 1996. The City finds it reasonable and necessary to amend said ordinance to provide for an effective date of December 10, 1996 and to otherwise ensure that this ordinance be implemented on December 10, 1996.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
WENDOVER, TOOELE COUNTY, UTAH AS FOLLOWS:

Section 1. Adoption of Ordinance. An Ordinance imposing a license tax upon those in the business of providing utility service is adopted, to read in its entirety as follows:

1-101. Purpose It is the purpose of this ordinance to raise general revenue for the City. All sums collected hereunder shall be paid to the general fund of the City.

1-102. Utility Revenue Tax

A. There is levied upon the business of every person or company engaged in business, in the City of Wendover, Utah, of supplying telephone, gas, or electric energy service, as public utilities, an annual license tax equal to five percent (5.0%) of the gross revenue derived from the sale and use of the services of such utilities, delivered from and after December 10, 1996 within the corporate limits of the City.

B. Definitions.

1. "Telephone service" means (1) exchange access service; (2) extended area service; and (3) customer access line charges. Telephone service does not include any customer access line charge or extended areas service that is provided as part of the Utah Low Income Assistance Program as set forth in the "Lifeline" Rule of the Utah Public Service Commission.

2. "Exchange access service" means telephone exchange lines or channels, and services provided in connection with them, which are necessary to provide access from the premises of a subscriber to the Local switched public telecommunications network of the public utility to effect communication or the transfer of information. Exchange access service does not include: (a) private line service; (b) long distance toll service; (c) carrier access service; (d) telephone services that are not regulated by the Utah Public Service Commission; and (e) services that emulate functions available in customer premisses equipment.

3. "Gross revenue," as used herein, means the revenue derived from the sale and use of public utility services within the City, provided that gross revenue, as applied to the telephone utility, shall be construed to mean revenue derived from telephone service.

4. "Public utility services" means the sale and use of electrical power and energy, gaseous fuels and telephone service.

C. Remittance Date. Within forty-five days after the end of each month in a calendar year, the public utility taxed hereunder shall file with the City Treasurer a report of its gross revenue derived from the sale and use of public utility service in the City, as defined in this section, together with a computation of the tax levied hereunder against the utility. Coincidental with the filing of such report, the utility shall pay to the City treasurer the amount of the tax due from the calendar month subject to said report.

1-103. Businesses in Competition with Public Utilities

A. Revenue Tax on Business in Competition with Public Utilities. There is levied upon the business of every person or company engaged in the business, in the City, of supplying telephone service, as defined in Section 1-103.B.1. of this Ordinance or its successor, gaseous fuels or electric energy service in competition with public utilities, as annual license tax equal to five percent (5.0%) of the gross revenue

B. Definitions.

1. "In competition with public utilities" means to trade in products or services within the same market as a public utility taxed under this Chapter, or its successor.

C. Remuneration Date. Within forty-five days after the end of each month in a calendar year, any business taxed hereunder shall file with the City Treasurer a report of its gross revenue derived from the sale and use of services specified hereunder rendered in competition with public utilities in the City, together with a computation of the tax levied hereunder against such report, the business shall pay to the City Treasurer the amount of the tax due for the calendar month which is the subject of the said report.

1-104. Business License. Any entity required to obtain a business license under the City's Business License Ordinance shall be entitled to deduct from the license tax imposed by this Ordinance an amount equal to the cost of said business license, if such deduction is required by law to avoid payment of charges which exceed five percent (5.0%) of gross revenues, as defined by U.C.A. Section 11-26-1, 1953 as amended.

Section 2. Agreements with State Tax Commission. The City, through its Mayor, is authorized to enter such agreements with the Utah State Tax Commission as may be necessary to effectuate collection of the license tax imposed by this Ordinance.

Section 3. Penalty and Remedies. Any person who violates the requirements of this Ordinance shall be guilty of a Class B misdemeanor, and subject to the penalties provided by law. The City is authorized to initiate a civil action to enforce the provisions hereof. In the event a civil action is filed to enforce the provision of this Ordinance, the City shall be entitled to recover its costs and attorney's fees.

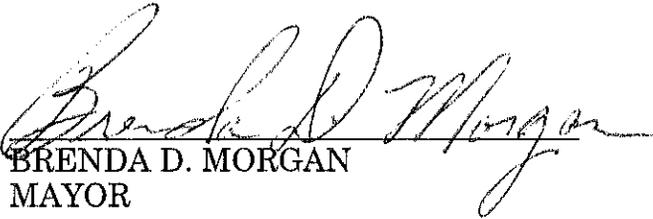
Section 4. Severability. If any section, paragraph, clause or provision of this ordinance shall be held invalid, unlawful or unenforceable, the same shall not effect the validity or enforceability of the remaining provisions of this Ordinance.

Section 5. Effective Date. This ordinance shall become effective on November 11, 1996.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WENDOVER,
TOOELE COUNTY, UTAH THIS 17th DAY OF OCTOBER, 1996.

THE CITY OF WENDOVER

BY:


BRENDA D. MORGAN
MAYOR

ATTEST:


MARGARET WHEELER
CITY RECORDER