

ORDINANCE NO. 234

AN ORDINANCE GRANTING TO THE GENERAL TELEPHONE COMPANY OF THE NORTHWEST, INC., A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO PLACE, ERECT, AND MAINTAIN POLES, WIRES, AND OTHER APPLIANCES AND CONDUCTORS; AND TO LAY UNDERGROUND CONDUCTORS FOR THE TRANSMISSION OF ELECTRICITY FOR TELEPHONE AND TELEGRAPH PURPOSES IN, UPON, AND UNDER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES, AND PUBLIC HIGHWAYS IN THE CITY OF BROOKINGS, STATE OF OREGON: AND TO EXERCISE THE PRIVILEGE OF OPERATING TELEPHONE AND TELEGRAPH INSTRUMENTS: AND OF DOING A TELEPHONE AND TELEGRAPH BUSINESS WITHIN SAID CITY.

The city of Brookings does ordain as follows:

Section 1. There is hereby granted by the city of Brookings to the General Telephone Company of the Northwest, Inc., a corporation, its successors and assigns, the right and privilege to do a telephone and telegraph business within said city of Brookings; and to place, erect, lay, maintain, and operate in and under the streets, alleys, avenues, thoroughfares, and public highways within the said city, poles, wires, and other appliances and conductors for the transmission of electricity for telephone and telegraph purposes; such wires and other appliances and conductors may be strung on poles by the street committee, or the council, or, at the option of said grantee, its successors and assigns, may be laid underground in pipes or conduits or otherwise protected; and such other apparatus may be used as may be necessary or proper to operate and maintain the same.

Section 2. It shall be lawful for the General Telephone Company of the Northwest, Inc., a corporation, its successors and assigns, to make all needful excavations in any of such streets, alleys, avenues, thoroughfares and public highways in said city for the purpose of placing, erecting, laying, and maintaining poles or other supports or conductors for said wires, or repairing, renewing, or replacing the same. Said work shall be done in compliance with the rules, regulations, ordinances, or orders which may, during the continuance of this franchise, be adopted from time to time by the city of Brookings.

Section 3. Whenever the General Telephone Company of the Northwest, Inc., a corporation, its successors, assigns, or agents shall disturb any of the streets, alleys, or public highways for the purposes aforesaid, it or they shall, without delay, put the same in as good condition as it was before it was so broken up, dug, or disturbed, and shall remove from the street all surplus earth, rubbish, or material caused thereby.

Section 4. Nothing in this ordinance shall be construed in any way to prevent the proper authorities of said city from sewerage, grading, planking, paving, repairing, altering, or improving any of the streets, alleys, avenues, thoroughfares, public highways, or places within said city, in or upon which the poles, wires, or other conductors of said company are or shall be placed; and said company shall, upon receiving one week's notice, in writing, from the city mayor or other official of the municipality having charge of said grading or improvement, remove such pole or poles or other obstruction; and if said company, its successors and assigns, upon such notice shall refuse or neglect to remove such pole

or poles or other obstruction, then the same shall be removed by the city at the expense of said company.

Section 5. Whenever it becomes necessary to temporarily rearrange, remove, lower, or raise the wires, cables, or other plant of the General Telephone Company of the Northwest, Inc. a corporation, its successors and assigns, for the passage of building, machinery or other objects, the said company, its successors and assigns, shall temporarily rearrange, remove, lower, or raise its wires, cables, or other plant as the necessities of the case require; provided, however, that the person or persons desiring to move any such buildings, machinery, or other objects shall pay the entire actual cost to the said company, its successors and assigns, of changing, altering, moving or replacing its wires, cables, or other plant so as to permit such passage, and shall deposit in advance with said company, its successors and assigns, a sum equal to such cost as estimated by said company, its successors and assigns, and shall pay all damages and claims of every kind whatsoever direct or consequential, caused directly or indirectly by the changing, altering, moving, removing, or replacing of said wires, cables, or other plant, except as may be occasioned through the negligence of said company, its successors and assigns, so as to permit such passage. Said company, its successors and assigns, shall be given not less than one week's written notice by the party desiring to move such building or other objects. Said notice shall detail the route of movement of such building or other objects over and along the streets and shall bear the approval of said city by the city mayor or other authorized city official. Such moving shall be with as much haste as possible and shall not be unnecessarily delayed or cause the said company, its successors and assigns, unnecessary expense or waste of time. The provisions of this section shall be carried out in accordance with the ordinances of the said city regulating such matters. This section shall not apply to the said city when engaged in the performance of any public work as in this franchise provided.

Section 6. That said company, its successors and assigns, hereby agrees and covenants to indemnify the city of Brookings from any injury existing from, or any casualty or accident to person or property by reason of any neglect or failure to keep said poles, wires, and other appliances and conductors in safe condition, and for all valid claims against said city for damages caused by said poles, wires, and other appliances and conductors.

Section 7. In consideration of the rights, privileges, and franchise hereby granted said grantee shall pay to the city of Brookings from and after the date this ordinance becomes in force and effect, and until its expiration, annually 3 per cent of the gross local exchange service receipts of the grantee from the operation of telephones located within the corporate limits of the city of Brookings. A sworn statement of such gross local service receipts of the grantee shall be filed with the recorder of the city of Brookings by the grantee after the end of each calendar year; and such sworn statements shall be so filed, and such payment of 3 per cent shall be made on or before the 15th day of March of each and every year for the calendar year preceding; and such 3 per cent payment made by the grantee will be accepted by the city of Brookings from the grantee, also in payment of any license, privilege, or occupation tax or fee for revenue or regulation, or for any other purpose now or hereafter to be imposed by the city of Brookings upon the grantee during the term of this franchise. And provided the grantee accepts this franchise and makes said 3 per cent payment, then the city of Brookings will not, during

the term of this franchise, require the grantee to make any further payment to the city of Brookings for any license, privilege, or occupation tax or fee.

Section 8. The rights, privileges, and franchise hereby granted shall continue and be in force for a period of 10 years from the effective date of the franchise as hereinafter set fourth.

Section 9. That said company shall file its acceptance of the conditions hereof within 60 days from the date of approval thereof; otherwise this ordinance shall be null and void.

Section 10. The effective date of the franchise as granted herein shall be January 1, 1973, and shall be in force hereafter upon the filing of said acceptance by General Telephone Company of the Northwest, Inc.

Passed by the council and signed by the mayor, January 9, 1973.

Wilma M Kemp
Mayor

ATTEST:

Marjorie B. McHernan
City Recorder

Accepted March 7, 1973
GENERAL TELEPHONE COMPANY OF THE NORTHWEST, INC.,

Don Eagleton
Don Eagleton, District Manager