

ORDINANCE NO. 64

AN ORDINANCE GRANTING TO THE WEST COAST TELEPHONE COMPANY, A WASHINGTON CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO PLACE, ERECT AND MAINTAIN POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS AND TO LAY UNDERGROUND WIRES FOR THE TRANSMISSION OF ELECTRICITY FOR TELEPHONE PURPOSES IN, UPON, UNDER AND OVER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES AND PUBLIC HIGHWAYS IN THE CITY OF TROUTDALE, OREGON, AND TO CONDUCT A GENERAL TELEPHONE BUSINESS WITHIN THE SAID CITY OF TROUTDALE, OREGON, PROVIDING LIMITATIONS AND RESTRICTIONS UPON SAID RIGHTS AND PRIVILEGES AND MEANS OF TERMINATION THEREOF, AND OBLIGATIONS BY SAID COMPANY, PROVIDING A CHARGE UPON GROSS REVENUES TO BE PAID BY SAID COMPANY, REPEALING ORDINANCE NO. 60, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF TROUTDALE:

SECTION 1. There is hereby granted by the City of Troutdale to the West Coast Telephone Company, a Washington corporation, its successors and assigns, the non-exclusive right and privilege to conduct a general telephone business within the said City of Troutdale and to place, erect, lay, maintain and operate in, upon, under and over 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 purposes. Such wires and other appliances and conductors may be strung upon poles and other fixtures above ground or at the option of the grantee may be laid underground in pipes or conduits or otherwise protected.

SECTION 2. It shall be lawful for Grantee to make all needful and necessary excavations in any of said streets, alleys, avenues, thoroughfares and public highways. Said work shall be done in compliance with the rules, regulations, ordinances and orders which have been heretofore or which may hereafter during the continuance of this franchise, be required by the City.

SECTION 3. Whenever Grantee shall disturb any of the streets, alleys, avenues, thoroughfares and public highways for the purposes aforesaid, it shall restore the same to good order and condition as soon as practicable without unnecessary delay and failing to do so, City shall have the right to fix a reasonable time within which such repairs and restoration shall be completed and upon failure of such repairs and restoration being made by Grantee, City shall cause such repairs to be made at the expense of Grantee.

SECTION 4. Nothing in this ordinance shall be construed in any way to prevent the proper authorities of the City from sewerage, grading, paving, repairing, altering or improving any of the streets, alleys, avenues, thoroughfares and public highways in or upon which the poles, wires, conductors, conduits, pipes or other apparatus may be placed but all such work or improvements shall be done if possible so as not to obstruct or prevent the free use of said poles, wire, conductors, conduits, pipes or other apparatus. In the event of such work, Grantee shall make such alteration of its poles or other property as may be necessary, on reasonable notice by the City and at Grantee's expense. Upon Grantee's failure to do such work promptly as requested, the City may cause the work to be done and the cost shall be paid by Grantee.

SECTION 5. Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the wires, cables or other plant of Grantee for the passage of buildings, machinery or other objects, Grantee 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 Grantee of changing, altering, moving, removing or replacing its wires, cables or other plant so as to permit such passage, and shall deposit in advance with Grantee a sum equal to such cost as estimated by Grantee and shall pay all damages and claims of any 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 sole negligence of Grantee. Grantee shall be given not

less than ninety-six (96) hours 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, alleys, avenues, thoroughfares and public highways and shall bear the approval of the City. Such moving shall be with as much haste as possible and shall not be unnecessarily delayed or cause Grantee unnecessary expense or waste of time.

SECTION 6. In consideration of the rights and privileges hereby granted, City shall have, and Grantee hereby grants to it, the right and privilege to suspend and maintain wires and necessary control boxes on poles placed by Grantee in the streets, and other places aforesaid, or if such wires are placed underground, to place and maintain in the pipes or conduits of Grantee, if space therein is available, wires which City may require for fire and police purposes. All such wires shall be placed upon the poles or in the conduits so as not to interfere with telephone service and shall not carry currents or voltage dangerous to telephone plant or telephone users and all installations, maintenance and repairs shall be subject to the rules, regulations and supervision of the Grantee. City agrees in consideration of the establishment of this service and the furnishing of such facilities to hold Grantee entirely free and harmless from all claims or liability for damage which may arise out of the operation of these special services.

As further consideration Grantee agrees to pay to City 2½% (two and one-half percent) of the gross annual revenue from local exchange service rendered subscriber within the city limits, such revenue to be determined in accordance with the lawful rates and rate groupings applicable to the exchange, exclusive of extended area service. Such payments shall be made by Grantee on or before March 15 of each year for the calendar year preceding and the first and last payments shall be for that fractional part of the calendar year during which this franchise is in effect, and such payment shall be accompanied by a statement of account showing the calculation of the payment, certified as true and accurate by an authorized official of Grantee.

SECTION 7. The rights, privileges and franchise hereby granted shall continue and be in full force for a period of fifteen (15) years from the date of passage of this ordinance. However, this ordinance shall be inoperative unless it is accepted in writing by the Grantee within sixty (60) days after the date of its passage.

SECTION 8. Grantee shall indemnify and save harmless the City and its officers and agents against and from all damage, cost and expense to which it or they may be subjected by reason of any negligent act or omission of Grantee.

SECTION 9. The telephone service to be supplied by Grantee shall at all times be of a standard of quality equal to service furnished other cities similarly situated by other telephone companies.

SECTION 10. Grantee shall furnish the City with a map showing the location of all poles, lines and underground facilities, and shall bring the map up to date upon reasonable notice by the City.

SECTION 11. In the event the Grantee shall fail for 30 days after written demand by the City to perform the obligations set forth in this ordinance to be performed by Grantee, then the rights and privileges herein granted may be terminated by the City.

SECTION 12. All construction and repair work of Grantee within the City shall be done in accordance with applicable State laws, City ordinances and codes, and in a reasonably safe manner.

SECTION 13. The rights and privileges of Grantee hereunder shall not

be considered assets or property of Grantee or to enhance the value of the assets or property of Grantee in any appraisal.

SECTION 14. Ordinance No. 60 of the Town of Troutdale, passed and approved September 13, 1960, is hereby repealed.

SECTION 15. It is hereby adjudged and declared that existing conditions are such that this Ordinance is necessary for the immediate preservation of the public peace, health and safety of the Town.

Passed by the Common Council of the Town of Troutdale this 11 day of July, 1960.

YEAS: 5

NAYS: 0

Signed by the Mayor this 11 day of July, 1960

(s) Vernon Rathman

MAYOR

ATTEST:

(s) R. D. Hewitt

Clerk of the Council Pro Tempore