

ORDINANCE NO. 425A  
Introduced by Commissioner Earl Johnson.

AN ORDINANCE GRANTING TO PACIFIC POWER & LIGHT COMPANY, A CORPORATION, AND TO ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE LICENSE AND FRANCHISE FOR A PERIOD OF TWENTY (20) YEARS TO CONSTRUCT, MAINTAIN AND OPERATE, IN AND ON THE PRESENT AND FUTURE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF WARRENTON, ELECTRIC LIGHT AND POWER LINES AND APPURTENANCES FOR THE PURPOSE OF SUPPLYING ELECTRICITY AND ELECTRIC SERVICE TO THE CITY OF WARRENTON, THE INHABITANTS THEREOF AND OTHERS, SUBJECT TO THE TERMS AND CONDITIONS AND TO THE MAKING OF THE PAYMENTS SPECIFIED IN THE ORDINANCE: AND PROVIDING FOR THE REPEAL OF ORDINANCE NO. 211A OF THE CITY OF WARRENTON, PASSED AND APPROVED JANUARY 5, 1942.

THE CITY OF WARRENTON DOES ORDAIN AS FOLLOWS:

Section 1. The City of Warrenton, hereinafter called the City, does hereby grant to Pacific Power & Light Company, a corporation, and to its successors and assigns, hereinafter called the Grantee, a license and franchise for the period of twenty (20) years from and after the effective date of this ordinance, to construct, maintain and operate in and on the present and future streets, alleys, bridges and public places of the City, electric light and power lines, with all the necessary or desirable appurtenances, for the purpose of supplying electricity and electric service to the City and the inhabitants thereof, and to persons and corporations beyond the limits of the City, subject to the conditions and restrictions provided by Chapter VII and to all other applicable provisions of the Charter of the City of Warrenton, including Chapter VII, effective January 2, 1923, as amended to date, and to the terms and conditions and to the making of the payments hereinafter specified.

Section 2. The license and franchise hereby granted shall not be exclusive; and the City expressly reserves the right, at any time during the term of the license or franchise hereby granted, to grant licenses or franchises for such purposes to other persons or corporations, as well as the right in its own name as a municipality to use said streets and public places for such purposes, in the event that the City shall hereafter decide to engage in the business of supplying electricity and electric service for municipal or other uses. If, during the term hereof, the City shall decide to engage in such business, and shall elect to acquire by condemnation or otherwise the property used by the Grantee in furnishing electric service hereunder, no value or damages of any kind shall be claimed by or allowed to the Grantee on account of the unexpired term of the license or franchise hereby granted.

Section 3. The locations and methods of installation and maintenance of all poles, wires, fixtures, underground conduits, and appurtenances shall be subject at all times to reasonable regulation by the Commission of the City, or by such officials of the City as may be designated by the Commission; and all such poles, wires, fixtures, underground conduits and appurtenances shall be so constructed and maintained as to interfere as little as practicable with street or other traffic. All of such poles, wires, fixtures, underground conduits, and appurtenances shall be installed and at all times maintained by the Grantee in safe order and condition and in accordance with good electrical practice.

Section 4. The service to be furnished hereunder by the Grantee shall be continuous and shall be adequate for the requirements of the City and its inhabitants, subject to accidents, interferences or interruptions beyond the reasonable control of the Grantee, and shall be furnished under such reasonable rules and regulations as the Grantee may make from time to time for the proper conduct of its business. Such service and all rates and charges therefor, and all rules and regulations pertaining thereto or to the making of necessary and proper extensions of service, shall be subject at all times to any rules, regulations and orders lawfully prescribed by the Public Utility Commissioner of Oregon, or by any other authority having jurisdiction in the premises. Such rates and charges shall at no time exceed the rates currently prescribed by such rules, regulations and orders of such regulatory authority.

Section 5. When necessary, in order to permit any duly authorized person to move any building or other structure across or along any street, alley, bridge or public place within the City, the Grantee shall temporarily raise or remove its wires, fixtures and appurtenances upon such streets, alleys, bridges or public places, upon reasonable notice in advance from such person, such notice to bear the signature of such official as the City Commission may designate, and at such time and in such manner as may be necessarily reasonable to accommodate such moving, consistent with the maintenance of proper service to the Grantee's customers; provided, however, that the cost to the Grantee of such temporary raising or removal, and of any interruption of the Grantee's service to its customers caused thereby, shall first be paid or satisfactorily secured to the

Grantee by the owner or mover of such building or other structure.

Section 6. The City shall have the right, without payment or charge therefor, to attach its fire alarm or police signal wires to the poles of the Grantee, but at its own risk and only in accordance with good electrical practice. If there is not sufficient space available thereon for said purposes, the Grantee's structures may be changed, altered, or rearranged at the expense of the City so as to provide proper clearance for such wires. Such fire alarm or police signal wires shall be subject to interference by the Grantee only when and to the extent necessary for the proper construction, maintenance, operation or repair of the Grantee's poles, wires, fixtures, conduits, and appurtenances.

Section 7. The Grantee shall protect and save the City, its officers, employees and agents, harmless against and from any and all damage claims, and any and all loss, liability, cost or expense, occasioned by any negligent act or omission of the Grantee in the construction, maintenance, operation or repair of the Grantee's property or any use thereof; and the Grantee shall at all times comply with any lawful present or future charter provisions, ordinances, rules or regulations of the City relating to the manner of occupation or use, or to the repair or improvement of streets, alleys, bridges and public places in the City.

Section 8. The Grantee shall have the right and privilege of trimming all trees which overhang the streets, in such a manner and to such an extent as will prevent the branches or limbs or other parts of such trees from touching or interfering with its wires, poles and other fixtures and equipment; providing no such trees are trimmed or cut back farther than may be reasonably necessary to prevent said interference and to allow the proper operation and maintenance of said lines, poles and fixtures.

Section 9. The Grantee shall pay to the City on or before the 20th day of the month following the close of each calendar quarterly period beginning with the calendar quarter ending December 31, 1961, a franchise fee or charge equivalent to three per cent (3%) of the Grantee's gross operating revenues accruing during the previous calendar quarter from the sale of electricity and electric service within the corporate limits of the City of Warrenton, other

than such revenues derived from transactions in interstate or foreign commerce, or from business done with the government of the United States or any agency thereof, and after deducting therefrom any amounts paid by the Grantee to the United States, or State of Oregon, or City, as excise or business taxes upon the sale or distribution of electric service in the City of Warrenton; and at the election of the Grantee, Grantee may also deduct from gross operating revenues the total of all uncollectible revenues from customers within the City during the previous calendar year. PROVIDED, if said uncollectible revenues are collected in the future, the regular 3% franchise fee will be paid to the City. The amounts so payable by the Grantee shall not be in addition to any other license, occupation, franchise or excise taxes or charges which might otherwise be levied or collected by the City from the Grantee in respect to Grantee's electric business or of the exercise of this franchise within the corporate limits of the City; and the amount of any such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting therefrom the franchise fee or charge payable hereunder by Grantee.

Section 10. The license and franchise hereby granted shall not be sublet or assigned, nor shall any of the rights or privileges hereby granted or authorized be leased, assigned, sold or transferred without the consent of the City of Warrenton, expressed by Ordinance duly passed by the Commission and approved by the Mayor of the City; but the consent of the City is hereby expressly given to the transfer by any mortgage or deed of trust of such license and franchise, along with the operating physical property and facilities of the Grantee located within the City, as security for any existing or future bona fide bond or other indebtedness of the Grantee.

Section 11. This ordinance shall be in full force and effect from and after twenty (20) days after its passage by the Commission and its approval by the Mayor of the City, but shall become null and void unless within thirty (30) days after such passage and approval the Grantee shall file with the Auditor and Police Judge, the Grantee's written acceptance of the terms, conditions and obligations to be complied with or performed by it hereunder.

Section 12. Upon the effective date of this ordinance, but not otherwise,

Ordinance No. 211A, passed and approved on January 5, 1942, shall be repealed and of no further force and effect thereafter.

Passed and adopted by the Commission this 5 day of Feb, 1962.  
Approved by the Mayor this 5 day of Feb, 1962.



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Mayor of the City of Warrenton

Attest:



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Auditor and Police Judge of the City of Warrenton