

MEMO from CITY OF WARRENTON

2/21/79

At the insistence of Dale Collins, Manager
Pacific Power & Light Co., Astoria
that this agreement could not be effective unless the PP&L held the
original of the ordinance passed by the city of Warrenton, at the
request of the city manager, Ordinance No. 668-A (the original) was
sent to the company this date.

jwb

ORDINANCE NO. 668-A

AN ORDINANCE GRANTING TO PACIFIC POWER & LIGHT COMPANY, A CORPORATION, AND TO ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE RIGHT AND FRANCHISE FOR A PERIOD OF TWENTY (20) YEARS TO CONSTRUCT, MAINTAIN AND OPERATE, IN, ON AND UNDER THE PRESENT AND FUTURE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF WASHINGTON, CLATSOP COUNTY, OREGON, ELECTRIC LIGHT AND POWER LINES AND APPURTENANCES FOR THE PURPOSE OF SUPPLYING ELECTRICITY AND ELECTRIC SERVICE TO THE CITY OF WASHINGTON, 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. 425A OF THE CITY OF WASHINGTON, PASSED AND APPROVED FEBRUARY 5, 1962.

THE CITY OF WASHINGTON ORDAINS AS FOLLOWS:

Section 1. The City of Warrenton, Clatsop County, Oregon, hereinafter called the City, does hereby grant to Pacific Power & Light Company, a corporation, and to its successors and assigns, hereinafter called Grantee, a right and franchise for the period of twenty (20) years from and after the effective date of this ordinance, to construct, maintain and operate in, on and under the present and future streets, alleys, bridges and public places of the City, hereinafter referred to as "streets," 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 to the inhabitants thereof, and to persons and corporations beyond the limits of the City, subject to the terms and conditions and to the making of the payments hereinafter specified.

Section 2. The right and franchise hereby granted shall not be exclusive; and the City expressly reserves the right, at any time during the term of this franchise, to grant rights 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 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 the City shall decide to engage in such business and shall elect to acquire by condemnation or otherwise the property used by Grantee in furnishing service hereunder, no value of damage of any kind shall be claimed by or allowed to Grantee in respect to the unexpired term of the franchise hereby granted.

Section 3. The locations and methods of installation and maintenance of all poles, wires, fixtures, underground lines, and appurtenances thereto (hereinafter referred to as "facilities") shall be subject at all times to reasonable regulation by the Commission of the City, and all such facilities shall be so constructed and maintained as to interfere as little as practicable with street or other traffic. All of such facilities shall be installed and at all times maintained by Grantee in accordance with

requirements of the City and its inhabitants, subject to accidents, interferences or interruptions beyond the reasonable control of Grantee, and shall be furnished under such reasonable rules and regulations as 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 extension 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 governmental authority having jurisdiction thereof.

Section 5. When necessary, in order to permit any duly authorized person to move any building or other structure across or along any of said streets, Grantee shall temporarily raise or remove its facilities upon such streets, upon reasonable notice in advance from the Auditor of the City, and at such time and in such manner as may be necessary reasonably to accommodate such moving, consistent with the maintenance of proper service to Grantee's customers; provided, however, that the cost to Grantee of such temporary raising or removal, and of any interruption of Grantee's service to its customers caused thereby, shall first be paid or satisfactorily secured to Grantee by the owner or mover of such building or other structures.

Section 6. The City shall have the right upon reasonable notice to Grantee and without payment or charge therefor, to attach its fire alarm, police signal wires or traffic control systems to the poles of 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, Grantee's structures may be changed, altered, or rearranged at the expense of the City so as to provide proper clearance for such wires or appurtenant facilities. Such facilities shall be subject to interference by Grantee only when and to the extent necessary for the proper construction, maintenance, operation or repair of Grantee's facilities.

Section 7. 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 Grantee in the construction, maintenance, operation or repair of Grantee's property or any use thereof; and 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 said streets.

Section 8. Grantee shall have the right and privilege of trimming all trees which overhang said 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 facilities; providing no such trees are trimmed or cut back further than may be reasonably necessary to prevent such

owner of the property on which they may be located, from cutting down and removing any trees which overhang said streets.

Section 9. (a) Grantee shall pay to the City a franchise fee or charge equivalent to three and one-half percent (3-1/2%) or the maximum allowed as set by the PUC Commission, of Grantee's gross operating revenue as the same is defined herein.

(b) "Gross operating revenue," means Grantee's gross revenues from the sale and use of electricity and electric service within the corporate limits of the City, other than such revenues derived from business done with the government of the United States or any agency thereof, and after deducting therefrom any amounts paid by Grantee to the United States or to the State of Oregon as excise, occupation, or business taxes upon the sale or distribution of electric service in the City. At the election of Grantee, Grantee may also deduct uncollectible accounts of customers within the City.

(c) Said franchise fee 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 with respect to Grantee's electric business or the exercise of this franchise within the corporate limits of the City and the amount due to the City under any such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting therefrom the amount of said franchise fee paid hereunder.

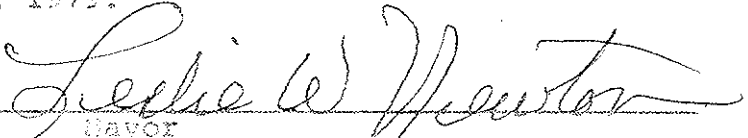
(d) Said franchise fee shall be paid monthly on or before the 20th of each month during the term hereof, and shall be computed upon the gross operating revenue accruing during the previous calendar month or portion thereof.

Section 10. Upon the effective date hereof, but not otherwise, Ordinance No. 425A of the City of Warrenton, passed and approved February, 1962 is repealed.

Section 11. This ordinance shall take effect thirty (30) days after its enactment by the Commission and approved by the Mayor, but shall become null and void unless within sixty (60) days after such effective date Grantee shall file with the Auditor Grantee's written acceptance of the terms, conditions and obligations to be complied with or performed by it hereunder.

Passed by the City Commission of the City of Warrenton, Oregon this 7th day of February, 1979.

Examined and approved by the Mayor of the City of Warrenton this 7th day of February, 1979.


Mayor

ATTEND:

CERTIFICATION OF AUDITOR OF
CITY OF WARRENTON

STATE OF OREGON)
) ss.
County of Clatsop)

I, Gilbert G. GRAMSON, Auditor of the City of Warrenton, Clatsop County, State of Oregon, do hereby certify: That the foregoing extracts of minutes of meetings of the City Commission of Warrenton held on the 17th day of January, 1979 and the 7th day of February, 1979, respectively, are full, true and correct copies of that portion of the minutes of said meetings which relate to the introduction, consideration, and passage of Ordinance No. 668-A of said City. I further certify that the foregoing copy of said Ordinance is a full, true and correct copy of the original thereof, as the same is in my custody as Auditor of said City of Warrenton, that said Ordinance was duly passed by the affirmative vote of all Commissioners at a regular meeting of Commission of said City, duly and regularly called and held at which five Commissioners being a quorum, were present and acting; that said Ordinance was duly attested by me as Auditor, and was presented to and duly approved by the Mayor.

WITNESS my hand and the Seal of the City of Warrenton this 7th
day of February, 1979.

(SEAL)



Auditor of the City of Warrenton

EXTRACT FROM MINUTES OF THE MEETING OF THE COUNCIL OF THE
CITY OF WARRENTON HELD ON THE 7th DAY OF February , 1979

A form of ordinance entitled:

AN ORDINANCE GRANTING TO PACIFIC POWER & LIGHT COMPANY, A CORPORATION, AND TO ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE RIGHT AND FRANCHISE FOR A PERIOD OF TWENTY (20) YEARS TO CONSTRUCT, MAINTAIN AND OPERATE, IN, ON AND UNDER THE PRESENT AND FUTURE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF WARRENTON, CLATSOP COUNTY, OREGON, 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. 425A OF THE CITY OF WARRENTON, PASSED AND APPROVED FEBRUARY 5, 1962.

was brought on for further consideration, having been read in full at a regular meeting of the Commission on the 17th day of January, 1979.

After discussion, Commissioner R. Gramson moved that said ordinance be given its second reading; Commissioner Davis seconded said motion, and the same was thereupon read by ~~title~~ by the Auditor.

The question then being upon the passage of said ordinance, the Mayor put the question, and a vote was taken which resulted as follows:

Voting Aye: Commissioners

Voting Nay: Commissioners

John T. Davis

Roderick Gramson

Robert L. May

Leslie W. Newton

Della Wilson

Absent: Commissioners

none

The Mayor announced that said ordinance had been duly passed by the affirmative vote of 5 Commissioners, being unanimous, of all the members of the City Commission shown by the "Ayes" and "Nays". The ordinance was then duly attested by the Auditor and submitted to the Mayor. The Mayor duly approved and signed said Ordinance on

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was submitted to the City Commission.

After discussion, Commissioner R. Gramson moved that said ordinance be given its first reading; Commissioner John Davis seconded said motion, and the ordinance was thereupon distinctly read in full for the first time.

Upon motion of Commissioner Roderick Gramson, seconded by Commissioner John T. Davis, further action upon said ordinance was deferred until the next regular meeting of the City Commission.