

ORDINANCE NO. 857

Ordinance Bill #2 - 1953

AN ORDINANCE GRANTING TO THE LINN COUNTY TELEPHONE COMPANY, HEREINAFTER SOMETIMES REFERRED TO AS "GRANTEE," ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO DO A GENERAL TELEPHONE AND TELEGRAPH BUSINESS AND TO PLACE, ERECT, LAY, MAINTAIN AND OPERATE IN, UPON, OVER, AND UNDER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES AND PUBLIC HIGHWAYS, PLACES AND GROUNDS WITHIN THE CITY OF LEBANON, POLES, WIRES, AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE, TELEGRAPH AND OTHER COMMUNICATION PURPOSES.

THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN AS FOLLOWS:

Section 1. There is hereby granted by the City of Lebanon to the Linn County Telephone Company, its successors and assigns, the right and privilege to do a general telephone and telegraph business within said City of Lebanon and to place, erect, lay, maintain and operate in, upon, over and under the streets, alleys, avenues, thoroughfares and public highways within the said City, poles, wires and other appliances and conductors for all telephone, telegraph and other communication purposes. Such wires and other appliances and conductors may be strung upon poles or other fixtures above ground, or at the option of the grantee, its successors and assigns, may be lain 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 Linn County Telephone Company, 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 conduits for said wires and appliances and auxiliary apparatus or repairing, renewing or replacing the same. All work, erections, erection of poles and appliances and laying of wires shall be done in compliance with the necessary rules, regulation, ordinances, or orders, which may, during the continuance of this franchise, be adopted from time to time by the City of Lebanon.

The word "necessary," as used in the paragraph, shall mean such rules, regulations, ordinances or orders as the City Council may deem necessary to protect and safeguard the health, safety and convenience of the public and any member of the public residing within the City of Lebanon who might be affected by any excavation work or installation of the Grantee. The City Council shall

have the right to demand from the Linn County Telephone Company, such bond or undertaking as it may deem necessary to insure the compliance by the Linn County Telephone Company with the rules, regulations, and orders of the Council relating to its operations within the city.

Any act done by any contractor or sub-contractor contracting with the Linn County Telephone Company or by any agent of the Linn County Telephone Company shall, for the purpose of this franchise, be deemed to be the act of the Linn County Telephone Company.

Section 3. Whenever the Linn County Telephone Company, its successors and assigns, shall disturb any of the streets for the purpose aforesaid, it or they shall restore the same to good order and condition as soon as practicable without unnecessary delay, and failing to do so the City of Lebanon shall have the right to fix a reasonable time within which such repairs and restoration of streets shall be completed, and upon failure of such repairs being made by said Company, its successors and assigns, the said City shall cause such repairs to be made at the expense of said Linn County Telephone Company, its successors and assigns.

The City Council shall have the right to cause the said Grantee, its successors or assigns, to change the location of any of its poles, wires, conduits, cable or other conductors, whenever public convenience shall require the location of the same elsewhere, and the expense of such change or removal shall be borne by the said Grantee, or its successors or assigns.

Section 4. Nothing in this Ordinance shall be construed in any way to prevent the proper authorities of the City of Lebanon from sewerage, grading, planking, rocking, paving, repairing, altering, or improving any of the streets, alleys, avenues, thoroughfares and public highways, within the City of Lebanon in or upon which the poles, wires or other conductors of said Company shall 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, wires, conductors, conduits, pipes, or other apparatus.

Section 5. Whenever any person has obtained permission of the proper City officials to use any of the streets of said City for the purpose of moving any building, the said Grantee, its successors or assigns, upon reasonable notice from such person and his paying the actual costs thereof, shall raise or remove any and all of the said wires or cable which may obstruct the moving of such building so as to allow the unobstructed passage of the same; and in case of the failure of said Grantee, its successors or assigns, to comply with the terms of this section, the Superintendent of Streets, or other proper officer of the said City, shall be and is hereby authorized to remove said wires at the expense of said Grantee, its successors or assigns.

Neither the City nor any of its employees shall be held liable for the consequences of any act done in connection with the moving of said building or rearrangement of wires or for the cost of rearranging the wires.

Section 6. At the expiration of the term of this franchise, the City at its election may purchase and take over to itself the entire property of the Grantee situated in or under the streets and public places of the City, at the fair value of the physical property of Grantee as determined by a board of arbitrators, one appointed by the City, one appointed by the Grantee, and the third by the two first so appointed. The City and the Grantee shall each pay for the services of the arbitrator appointed by it; and each shall pay one-half of the cost of the services of the third arbitrator, and of any other costs of conducting the arbitration, except that the fees of any witness called by either party shall be paid by the party calling the witness.

Section 7. If, at any time in the future, the Grantee, its successors and assigns shall lay or plan to lay underground any pipe, conduits or other apparatus, it shall, for the purpose of notifying the Council, within a reasonable time prior to the commencement of any work in connection therewith, furnish to the City Recorder a map or blueprint showing the location of all proposed excavations, pipes, conduits, or other apparatus and the laying of the same shall be subject to the order of the Council.

Section 8. In case it shall be necessary to cut or remove any of the said wires, cables or other telephone conductors or equipment of the said Grantee, in order to get fire ladders or other apparatus to a building during a

city conflagration, the said City of Lebanon shall not be liable for any damages done to such wires, cables or conductors or equipment.

Section 9. The Grantee, its successors or assigns, if required by the Council, shall paint to a height of eight feet with such color as designated by the Council, all poles which may be declared by the Council to be hazardous to traffic.

Section 10. The Grantee shall file with the Recorder of the City its written acceptance of the right and franchise hereby granted and the obligations hereby imposed, within thirty (30) days from and after the date when this ordinance shall become effective; and this ordinance shall become null and void unless such acceptance is so filed. The Grantee shall at all times, fully and faithfully perform all of the terms, provisions and conditions of this ordinance and all other ordinances and orders of the Council as specified in paragraph 2 hereof. Upon default by the Grantee, its successors or assigns, in any of its obligations hereunder and the continuance of such default for a period of thirty (30) days from and after the receipt of notice from the City specifying such default, the City may by ordinance, and for good cause shown, cancel and terminate this franchise and all further rights of the Grantee hereunder.

Section 11. This ordinance shall be of no force or effect unless published in full at the expense of the Grantee twice in a newspaper of general circulation published in the City of Lebanon, such publication to take place and be completed not less than ten (10) nor more than thirty (30) days before the final passage thereof.

Section 12. In consideration of the rights, privileges, and franchise hereby granted, said Grantee, the Linn County Telephone Company, its successors and assigns, shall pay to the City of Lebanon, from and after the date of the acceptance of this franchise, and until its expiration, annually, two per cent (2%) per annum of its gross local exchange service receipts derived from the operation of telephones located within the corporate limits of the City of Lebanon. Payment of said two per cent (2%) shall be made on or before the fifteenth day of March of each and every year for the calendar year preceding, the first annual payment being due on or before March 15, 1954, and such 2% payment made by the Grantee will be accepted by the City of Lebanon 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 Lebanon upon the Grantee during the term of this franchise. And provided the Grantee accepts this franchise and makes said 2% payment, then the City of Lebanon will not, during the term of this franchise, require the Grantee to make any further payment to the City of Lebanon for any license, privilege or occupation tax or fee for revenue or regulation or for any other purpose.

Section 13. In further consideration of the rights and privileges herein granted, the Grantee, its successors and assigns hereby grants, without charge, to the City of Lebanon the right and privilege to suspend and maintain on poles placed by Grantee, its successors and assigns, in the streets, roads, alleys and thoroughfares, such wires as are necessary for the exclusive use of the City of Lebanon for fire alarm and police signal circuits, or other signal circuits, required by the City. In the event that the use of poles in certain areas is discontinued by Grantee and underground circuits are substituted therefor, then Grantee will reserve space in the underground conduit to accommodate the fire alarm and police signal circuits and other city signal circuits which otherwise would be suspended on Grantee's poles for which no charge shall be made. All wires of the City of Lebanon shall be so placed on the poles, or in the conduits, of Grantee as not to interfere with telephone service of the Grantee, and shall not carry such electrical current or voltage as may endanger Grantee's telephone plant or telephone users. Grantee further agrees to take fire calls at its switchboard and to give the location to volunteer firemen, all without charge to the City of Lebanon, until such a time as Grantee shall install automatic switchboard equipment. When such automatic switchboard equipment shall be installed, Grantee agrees to install, without cost to the City of Lebanon, a multiple jack strip with associated apparatus and five trunks to the Central Exchange and two other trunk circuits shall be provided for receiving fire reports only, to the City Hall, and thereafter the employees of the City will receive the fire calls and relay the necessary information to the proper parties.

Section 14. In further consideration of the rights and privileges herein granted, the Grantee agrees to furnish, without cost to the City of Lebanon, local exchange service of the types and at the locations specified on the statement marked Exhibit A attached hereto and forming a part hereof. Telephone service of other types or classes, or any service in addition to that specified in Exhibit A shall be paid for by the City of Lebanon at the regular rates for service as contained in Grantee's tariff as now on file or as hereafter may be filed with the Public Utilities Commissioner of Oregon.

Section 15. The rights, privileges and franchise herein granted shall continue and be in force for the period of ten (10) years from and after January 1, 1953.

Passed by the Council April 7,, 1953.

APPROVED:

Elmer Fitzgerald
Mayor of the City of Lebanon

ATTEST:

Eda Green
Recorder of the City of Lebanon

EXHIBIT A

<u>Phone Listing</u>	<u>Type of Service</u>	<u>Monthly Rate if billed in accordance with Tariff in Effect 1/1/53</u>
Office of the Mayor	One party business desk phone	\$ 4.75
Recorder and City Council	One party business desk phone	4.75
"	One extension phone	1.25
Police Department	One party business desk phone- Weatherproof	6.00
"	Three extension phones-Weatherproof	7.50
Chief of Police	One party business desk phone	4.75
Fire Department	One party business desk phone	4.75
"	One "Howler"	1.75
"	Three jacks	1.50
"	One extension phone	1.25
"	One loud-ringing gong	.75
"	One party business desk phone	4.75
"	One extension phone	1.25
City Housing	One party business desk phone	4.75
City Library	One party business desk phone	4.75
City Barn	Two party business desk phone	4.25
Swimming Pool	Two party business desk phone Swimming Season	<u>4.25</u>
Total monthly cost of "Free Service" if billed at regular tariff rates in effect on January 1, 1953		<u>\$ 63.00</u>
Total Annual Cost of "Free Service" if billed at regular tariff rates in effect on January 1, 1953		<u>\$ 756.00</u>