

ORDINANCE NO. 852 For 1953

Bill no. 3

AN ORDINANCE granting the LEBANON T-V DISTRIBUTING CORPORATION, an Oregon Corporation, a franchise to stretch wire and cable and appurtenant structures over and under the streets and alleys of the City of Lebanon and to maintain and use the same as a coaxial cable distribution system for television distribution to subscribers' residence and to business and public establishments for ten years and regulating the rate of such service.

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

Section 1. The City of Lebanon, hereinafter called the grantor, does hereby grant to the LEBANON T-V DISTRIBUTING CORPORATION, an Oregon Corporation hereinafter called the grantee, and to its successors and assigns, the rights, privilege, and authority and franchise to operate in, over, upon and under the streets, alleys, and public highways of the City of Lebanon and to stretch wires and cables on poles or underground or on other fixtures on all streets and alleys and to erect other appurtenances and to maintain and use the same as a coaxial cable subscription system for television signal distribution to subscribers' homes and to business establishments within the City of Lebanon.

Section 2. All work, erections, erection of poles and appliances and laying of wires and the operation of maintenance of the grantee's system 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, ordinance 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 effected by any excavation work or installation of the grantee, or maintenance used and operated of its television distributing system. The City Council shall have the right to demand from the grantee, such bond or undertaking as it may deem necessary to insure the compliance by the grantee with the rules, regulations, and orders of the Council relating to its operation within the city.

Any act done by any contractor subcontractor or by the grantee or by any agent of the grantee shall, for the purpose of this franchise be deemed to the act of the grantee, and all initial construction authorized herein shall be done only in accordance with a plan or design submitted to and approved by the City Council of the City of Lebanon.

Section 3. All poles, cables, wires, antennas or other appurtenances shall be constructed and erected in the workmanlike manner.

Nothing in this ordinance shall be construed to prevent the City from sewerage, planking, bridging, grading, altering, or otherwise improving any of the streets of the City. This ordinance shall further not be so construed as to deprive the City of any rights and privileges which it has now or which may be conferred upon it to regulate the use and control of streets. The City shall further have, at all times, the right to make use of the poles of said grantee for wires, cables, or conductors for any and all city-owned wires system provided that such use does not conflict with grantee's prior occupancy.

In the event any of the grantee's poles, cables, wires or other appurtenances interfere with any future use that the City of Lebanon desires to make of its streets or alleys, the grantee shall, at its own expense, promptly re-locate such poles, cables, wires or other appurtenances upon being notified to do so. Whenever the grantee, 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 grantor shall have the right to fix a reasonable time limit within which such repairs and restoration of street shall be completed, and upon failure of such repairs being made by said Corporation, its successors and assigns and said City shall cause such repairs to be made at the expense of the said grantee, its successors and assigns.

Section 4. All construction hereby authorized shall conform to the requirements of the Nation Electric Code of the State of Oregon and the City of Lebanon.

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 and 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 cables 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 Suprintendant of Streets, or other proper officer of the said City shall be and is hereby authorized to remove said wires at the expense of the grantee, its successors and assigns.

Neither the City nor any of its employees shall be held liable for the consequence of any act done in connection with the moving of said building or re-arrangement of wires or for the cost of re-arranging the wires.

Section 6. In case it shall be necessary to cut or remove any of the said wires, cables or other appurtenances 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 damage done to such wires, cables or conductors or equipment.

Section 7. The rights and privileges herein granted shall not be deemed exclusive and the right is hereby reserved to the City of Lebanon to grant to any other persons, companies, corporation, or associations similiar rights.

Section 8. The rights, privileges, and franchise herein granted shall cease and terminate ten (10) years after the effective date of this ordinance.

Section 9. The grantee shall indemnify and save the city free and harmless from any liability, loss, costs, or damage or expense from accident or damage, either to itself or to persons or property of others, which may occure by reason of the exercise of the rights and privileges herein granted, and shall promptly repair damages done to streets, alleys, or other city structurs by grantee.

Section 10. The grantee shall pay to the City of Lebanon, not later than the tenth (10) of February each year, an amount equal to the hereinafter set forth

percentage of the gross income received in service rendered in the City of Lebanon, for which any part of the rights exercised under this franchise are used, to-wit:

Two per cent of the gross revenues of the grantee during the term of this franchise.

this annual payment shall be based in the gross income of the twelve months preceeding December 31, of each year. There shall not be included in gross income those sums received by grantee for installation, construction or connection work. All payments made hereunder by the grantee to the City shall be offset credited against any other license, or excise or privileges taxes imposed by the City against grantee.

Section 11. Grantee shall, within thirty days after the effective date of this ordinance, file with the City Recorder written acceptance of this franchise and the terms imposed.

Section 12. The maxium rate of charges which the grantee its successors or assigns, can charge or collect for service rendered or performed pursuant to this franchise are, until changed by the ordinance of the grantor, as follows:

a. For installation and connection of its service to a private residence, ONE HUNDRED FIFTY AND NO/100 (\$150.00) DOLLARS.

b. For installation and connection of it's service to a commercial establishment, TWO HUNDRED AND NO/100 (\$200.00) DOLLARS.

c. For furnishing television signals to commercial establishments, EIGHT AND NO/100 (\$8.00) DOLLARS per month.

d. For furnishing television signals to private residence, THREE AND 60/100 (\$3.60) DOLLARS per month.

The council of the City of Lebanon reserves the right, from time to time to change, alter, regulate, and fix the rates or charges which the grantee or its successors or assigns can charge or collect hereunder during the life of this franchise.

Section 13 The grantee shall at all times fully and faithfully perform all the terms, provisions, and conditions of this franchise and grant and furnish effecient service hereunder and maintain its property in good order and repair throughout the entire term of the grantee and upon any default by the grantee hereunder of any of the provisions of this franchise or upon the failure of the grantee to comply with any of the rules, regulations, or order of the grantor and the continuance of such default or failure for a period of thirty (30) days from and after the receipt of notice from the council of the City of Lebanon specifying such default, said City of Lebanon may by ordinance and for good cause shown, forfeit this grant and franchise and all further fights of the grantee, its successors or assigns, hereunder and in case of said forfeiture, the grantee shall have one hundred twenty (120) days to remove all of its wires, cables or other appurtenances from said street and alleys and any not so removed within said time shall become the property of the grantor.

Section 14. The grantee shall furnish without charge to the grantor at a place designated (within the corporate limits of the grantor) by the grantor, one (1) outlet that is equivalent to the service the grantee shall be furnishing to private residences.

Section 15. At the expiration of the terms of this franchise, the City of Lebanon, at this election and upon the payment therefor of a fair valuation thereof, may purchase and take over to itself the property of the Lebanon T-V. Distributing Corporation, its successors and assigns in its entirety and which may be situated on, in, above or under the streets and public places of said city and used in connection therewith, within the corporate limits of said city and should the City of Lebanon, upon the termination of this franchise, exercise such rights of purchase, the said property of said company, its successors and assigns, in its entirety shall be and become the property of the City of Lebanon upon the passage, approval, and publication of an ordinance duly enacted, authorizing the same and upon the City of Lebanon paying to the said Lebanon T-V Distributing Corporation, its successors and assigns, the valuation thereof, such valuation shall be of all appurtenances, appliances, equipment, wires, cables, coaxial cable, antennas, lease holds, buildings, stores and furniture and fixtures suitable and used by the company for its purposes within said City of Lebanon under this franchise basing such appraisalment upon the fair market value of the property as it is then located, ready for actual use; and such valuation shall be arrived at by the City of Lebanon appointing an appraiser, Lebanon T-V Distributing Corporation, its successors or assigns, appointing one appraiser, and such two appraisers appointing a third appraiser which appraisers shall have the power and authority to employ expert valuers to aid them in arriving at the value of said property.

Section 16. The grantee shall not sublet or assign this franchise or any of the rights or privileges granted herein without the consent of the City of Lebanon expressed by ordinance duly passed.

Section 17. This ordinance shall be of no force or effect unless published in full at the expense of the grantee twice in the newspaper of general circulation published in the City of Lebanon such publication to take place and be completed not less than ten (10) days nor more than thirty (30) days before the final passage thereof.

Section 18. The rights and privileges hereby granted shall cease and terminate and this ordinance shall be of no further force and effect unless grantee complies with the provisions of Section 2., of this ordinance and starts actual construction in accordance with said plan within six months from the effective date of this ordinance

PASSED AND APPROVED THIS 21st day of APRIL, 1953.

Elmer Fitzgerald
MAYOR

ATTEST:

Ilda Inger
CITY RECORDER