

ORDINANCE NO. 553

AN ORDINANCE granting to The Pacific Telephone and Telegraph 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 Milwaukie, poles, wires and other appliances and conductors for all telephone, telegraph and other communication purposes.

MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. There is hereby granted by the City of Milwaukie to The Pacific Telephone and Telegraph Company, its successors and assigns, the right and privilege to do a general telephone and telegraph business within said City of Milwaukie 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 said City, poles, wires and other appliances and conductors for all telephone, telegraph and other communications 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 laid 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 said The Pacific Telephone and Telegraph Company, its successors and assigns, to make all needful excavations in any of such streets, alleys, avenues, thoroughfares and public highways, places and grounds 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. Said work shall be done in compliance with the necessary rules, regulations, ordinances or orders, which may during the continuance of this franchise be adopted from time to time by the City of Milwaukie.

Section 3. Whenever The Pacific Telephone and Telegraph 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 Milwaukie 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 The Pacific Telephone and Telegraph Company, its successors and assigns.

Section 4. Nothing in this Ordinance shall be construed in any way to prevent the proper authorities of the City of Milwaukie from sewerage, grading, planking, rocking, paving, repairing, altering, or improving any of the streets, alleys, avenues, thoroughfares and public highways, places and grounds within the City of Milwaukie 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 it becomes necessary to temporarily rearrange, remove, lower or raise the aerial cables or wires or other apparatus of the grantee to permit the passage of any building, machinery or other object, the said grantee will perform such rearrangement on seven (7) days' written notice from the person or persons desiring to move said building, machinery or other objects. Said notice shall bear the approval of such official as the common council may designate, shall detail the route of movement of the building, machinery or other objects, shall provide that the costs incurred by the grantee in making such rearrangement of its aerial plant will be borne by the person or persons giving said notice and shall further provide that the person or persons giving said notice will indemnify and save said grantee harmless of and from any and all damages or claims of whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the aerial plant of the grantee, and, if required by grantee, shall be accompanied by a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by grantee.

Section 6. In consideration of the rights, privileges, and franchise hereby granted, said grantee, The Pacific Telephone and Telegraph Company, its successors and assigns, shall pay to the City of Milwaukie, 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 service receipts derived from the operation of telephones located within the corporate limits of the City of Milwaukie. 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, with the exception that in the year 1952, payment shall be made only for the period commencing on the date this franchise becomes effective and ending December 31, 1951, and such 2% payment made by the grantee will be accepted by the City of Milwaukie 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 Milwaukie 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 Milwaukie will not, during the term of this franchise, require the grantee to make any further payment to the City of Milwaukie for any license, privilege or occupation tax or fee.

Section 7. The rights, privileges and franchise herein granted shall continue and be in force for the period of twenty (20) years from and after the date this Ordinance becomes effective.

Section 8. This Ordinance shall take effect and be in force from and after its passage and approval, and the said grantee shall, within thirty (30) days of the passage of this Ordinance, file with the Recorder of the City of Milwaukie, its written acceptance of all the terms and conditions of this Ordinance.

Passed and adopted by the common council the 23rd day of April, 1951.

ATTEST:

Ellen Martin
City Recorder

Approved by the Mayor the 23rd day of April 1951.

Fred Sperr Mayor

April 23, 1951

The Honorable Common Council
of the City of Milwaukie
Milwaukie, Oregon

Gentlemen:

This Company has today made application for a franchise to occupy the streets of the City of Milwaukie for its communication facilities.

The previous franchise of this Company contained a provision for the accommodation of police and fire alarm equipment of the City. However, because the matter of this accommodation does not seem appropriate as a term or condition of the franchise, we have omitted such provision in the form of the franchise submitted today. This letter is to assure you that this Company will continue the accommodation, where facilities are available, throughout the life of the new franchise. This accommodation includes the following:

- (1) The City may place on the poles of the Company a fixture to which may be attached not more than four wires.
- (2) The City may be permitted the use of either one duct in the underground conduit system or two pairs of wires in underground cable of the Company, it being optional with the Company as to whether two pairs of wire or a duct be furnished.

The facilities herein referred to shall be furnished without charge to the City and are to be used only for low tension police and fire alarm purposes; provided, however, that the City shall, in its use and maintenance of such fixtures, wires or duct, comply with the reasonable plans and rules of the Company, so that there may be a minimum danger of contact between its fixtures, wires or duct and the wires, cables, or duct of the Company; nor shall the wires of the City be unduly exposed to foreign electrical currents in excess of five thousand volts; and provided, further, that in case of rearrangement of said plant, the City will care for its own wires and construction, and will save the Company harmless from any accidents caused by such construction.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY

By _____
District Manager

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