

AN ORDINANCE granting to Pacific Northwest Bell Telephone Company, hereinafter sometimes referred to as "grantee", its successors and assigns, the right and privilege to do a general communication 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 Drain poles, wires and other appliances and conductors for all telephone, telegraph and other communication purposes.

THE CITY OF DRAIN, OREGON ORDAINS AS FOLLOWS:

Section 1. There is hereby granted by the City of Drain to Pacific Northwest Bell Telephone Company, its successors and assigns, the right and privilege to do a general communication business within the City of Drain 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, 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, 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 Pacific Northwest Bell Telephone Company, its successors and assigns, to make all needful excavations in any of the streets, alleys, avenues, thoroughfares and public highways, places and grounds in the City for the purpose of placing, erecting, laying and maintaining poles or other supports or conduits for such wires and appliances and auxiliary apparatus or repairing, renewing or replacing the same. The 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 Drain .

Section 3. Whenever Pacific Northwest Bell 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 Drain shall have the right to fix a reasonable time within which the repairs and restoration of streets shall be completed, and upon failure of the repairs being made by the Grantee, its successors and assigns, the City shall cause the repairs to be made at the expense of Grantee, 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 Drain 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 Drain in or upon which the poles, wires or other conductors of the Grantee shall be placed, but all work or improvements shall be done if possible so as not to obstruct or prevent the free use of the poles, wires, conductors, conduits, pipes, or other apparatus. The City shall not require the Grantee to remove or relocate its facilities or vacate any street, alley or other public way incidental to any public housing or renewal project under ORS Chapters 456 or 457 without reserving Grantee's right therein or without requiring Grantee to be compensated for the costs thereof. The City may undertake public works projects which require Grantee to make modifications, additions and extensions to its physical equipment, facilities or plant at Grantee's expense. However, the City shall require the cost of making such modifications, additions and extensions to Grantee's physical equipment, facilities or plant that benefits a private developer be paid for by the private developer.

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 moved over the roads, streets, alleys, avenues, thoroughfares and public highways within the City, the Grantee will perform such a rearrangement within a reasonable period after written notice from the owner or contractor-mover desiring to move said building, machinery or other objects. Such notice shall bear the approval of the Engineer for the City, shall detail the route of movement of the building, machinery, or other object, shall provide that the costs incurred by the Grantee in making such a rearrangement of its aerial facilities will be borne by the contractor-mover and shall further provide that the contractor-mover will indemnify and save the Grantee harmless of and from any and all damages of claims whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the facilities of the Grantee, and if required by the Grantee, shall be accompanied by a cash deposit or a good and sufficient bond to pay any all such costs as estimated by the Grantee.

Section 6. In consideration of the rights, privileges, and franchise hereby granted, said Grantee, Pacific Northwest Bell Telephone Company, its successors and assigns, shall pay to the City of Drain from and after the date of the acceptance of this franchise, and until its expiration, annually, three percent (3%) per annum of its gross local service revenues derived from services other than competitive services within the corporate limits of the City of Drain less net uncollectibles and revenue paid directly to the Grantee by the United States of America or any of its agencies. Services that are competitive for purposes of this franchise include

Grantee's Centrex and Centrex type services such as Corecom, Private Line and Private Line type services such as Digicom, Radio type services such as Mobile Communications and Bellboy, the provision of inside wiring and any PNB service that is now or hereafter the subject of detariffing, regulatory forbearance or deregulation by the Oregon Public Utility Commission. Revenues derived from competitive services shall be excluded from the franchise fee base under this franchise. The reasonable value of any utility service or the use of any Grantee facilities used or reserved for use by the City without Grantee's prescribed charges shall be credited toward any payment due the City under this provision. Payment of said three percent (3%) 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 1988 payment shall be made only for the period commencing on the date this ordinance becomes effective and ending December 31, 1988. Such three percent (3%) made by the Grantee will be accepted by the City of Drain from the Grantee, also in payment of any license, privilege or occupation tax or fee for revenue or regulation, or any permit or inspection fees or similar charges for street openings, installations, construction or for any other purpose now or hereafter to be imposed by the City of Drain upon the Grantee during the term of this franchise.

Section 7. The rights, privileges and franchise herein granted shall continue and be in force for a period of ten (10) years from and after the date this Ordinance becomes effective, except that it is understood and agreed that either party may terminate this agreement after 180 days notice in writing. This Ordinance shall be subject to any and all State or Federal legislative enactments.

Section 8. This Ordinance shall, if accepted by Grantee take effect and be in force sixty (60) days from and after its passage and approval. Said Grantee shall, within sixty (60) days of the passage and approval of this Ordinance, if it accepts such Ordinance, file with the Recorder of the City of Drain its written acceptance of all the terms and conditions of this Ordinance.

PASSED AND ADOPTED by the City Council this 14th day of November, 1988.

APPROVED by the Mayor the 14th day of November 1988.

Grant D. Lewis  
Mayor

ATTEST: Bill Ewing - 11-15-88

Section 6. In consideration of the rights, privileges, and franchise hereby granted, said Grantee, Pacific Northwest Bell Telephone Company, its successors and assigns, shall pay to the City of Drain from and after the effective date of the amendment to this franchise, and until June 30, 1990, annually, three percent (3%) per annum of its gross local service revenues derived from services other than competitive services within the corporate limits of the City of Drain less net uncollectibles and revenue paid directly to the Grantee by the United States of America or any of its agencies. Services that are competitive for purposes of this franchise include Grantee's Centrex and Centrex type services such as Corecom, Private Line and Private Line type services such as Digicom, Radio type services such as Mobile Communications and Bellboy, the provision of inside wiring and any PNB service that is now or hereafter the subject of detariffing, regulatory forbearance or deregulation by the Oregon Public Utility Commission. Revenues derived from competitive services shall be excluded from the franchise fee base under this franchise until June 30, 1990. Effective July 1, 1990, and until the franchise's expiration, said Grantee shall pay to the City of Drain, annually, seven percent (7%) of its gross revenues derived from exchange access services, as defined in ORS 401.710, within the corporate limits of the City of Drain less net uncollectibles and revenue paid directly to the Grantee by the United States of America or any of its agencies. The reasonable value of any utility service or the use of any Grantee facilities used or reserved for use by the City without Grantee's prescribed charges shall be credited toward any payment due the City under this provision. Payment of this franchise fee shall be made on or before the fifteenth day of March of each and every year for the calendar year preceding. For the year 1990, payment of said three percent (3%) shall be made only for the period January 1, 1990 to June 30, 1990 and payment of said seven percent (7%) shall be made for the period July 1, 1990 to December 31, 1990. Such payments made by the Grantee will be accepted by the City of Drain from the Grantee, also in payment of any license, privilege or occupation tax or fee for revenue or regulation, or any permit or inspection fees or similar charges for street openings, installations, construction or for any other purpose now or hereafter to be imposed by the City of Drain upon the Grantee during the term of this franchise.