

## ORDINANCE NO. 216

AN ORDINANCE GRANTING TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO PLACE, ERECT AND MAINTAIN POLES, WIRES AND OTHER APPLIANCE AND CONDUCTORS AND TO LAY UNDERGROUND WIRES FOR THE TRANSMISSION OF ELECTRICITY FOR TELEPHONE AND TELEGRAPH PURPOSES IN, UPON AND UNDER THE STREETS, ALLEYS, AVENUES AND THOROUGHFARES IN THE CITY OF ALBANY, OREGON, AND TO EXERCISE THE PRIVILEGE OF OPERATING TELEPHONE AND TELEGRAPH INSTRUMENTS IN AND OF DOING A TELEPHONE AND TELEGRAPH BUSINESS WITHIN THE CITY OF ALBANY, OREGON.

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

Section 1. There is hereby granted by the City of Albany, Oregon, 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 Albany, and to place, erect, lay, maintain and operate over and under the streets, alleys, avenues and thoroughfares within said City, poles, wires and other appliances and conductors for the transmission of electricity for telephone and telegraph purposes. Such wires and other appliances and conductors may be strung upon poles or other fixtures above ground, except as hereinafter provided, or at the option of the grantee its successors and assigns may be laid under ground in pipes or conduits or otherwise protected, provided that in no event shall poles wires or conduits be erected or maintained above ground on First and Second Streets within that portion of the City of Albany between Lyon Street and Washington Street; provided further that whenever the City Council shall create and define districts in the business section of the City wherein all wires shall be placed underground, the said grantee, its successors and assigns, shall comply with the terms of such order when made within a reasonable time thereafter.

Section 2. It shall be lawful for the said The Pacific Telephone and Telegraph Company, its successors and assigns, to make all needful excavations in any of the streets, alleys, avenues, and thoroughfares in said City of Albany, except as herein otherwise provided, for the purpose of placing, erecting, laying, and maintaining poles, or other supports or conductors for said wires, or repairing, renewing or replacing the same, and said work shall be done in compliance with the rules, regulations ordinances or orders which may during the continuance of the franchise be adopted from time to time by the Council of the City of Albany, Oregon, all of said poles to be <sup>of</sup> lawful size and height and neatly painted and erected in a substantial, safe and workman-like manner and to be so placed as not to interfere with travel on or the use of said streets, alleys, avenues and thoroughfares, or with any object lawfully existing in any of said streets, alleys, avenues and thoroughfares of said City, subject however, to the supervision and control of the Council of the City of Albany.

Section 3. That whenever the said The Pacific Telephone and Telegraph Company, its successors or assigns, shall disturb any of the said streets, alleys, avenues or thoroughfares of the said City of Albany, for the purpose aforesaid, they shall restore the same within ten days to as good condition and repair as the same was before it was so

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disturbed or broken up; and whenever it shall be necessary in the erection of such poles or any of them, or in the placing of underground wires or conduits, to take up any sidewalk or to dig up the ground at the side or at the corner of any street, alley, avenue or thoroughfare of the said City of Albany, the said The Pacific Telephone and Telegraph Company, its successors or assigns, shall thereafter, and without delay remove any and all debris caused or created thereby and shall put such sidewalk, street, alley, avenue or thoroughfare in as good condition as the same was before it was taken up or disturbed; and the Committee on Streets and Public Property of the Council of the City of Albany, or such other committee or official as the Council of said City may designate, shall have the right to cause the said Company, its successors or assigns, to change the location of any of its said poles, wires, conduits, or other conductors, whenever the public convenience shall require the location of the same elsewhere, and the expense of such removal shall be borne by The Pacific Telephone and Telegraph Company, its successors or assigns.

Section 4. Nothing in this franchise shall be construed in any way to prevent the proper authorities of the City of Albany from sewerage, grading, planing, rocking, paving, repairing, altering or improving any of the streets, alleys, avenues or thoroughfares within said City, 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. In consideration of the rights and privileges herein granted, the said City, by its authorized officers, shall have and the said The Pacific Telephone and Telegraph Company hereby grants to it the right and privileges to suspend and maintain on poles placed by said company, its successors and assigns, in the streets and other places aforesaid, any and all wires which said City of Albany may require exclusively for its own use for fire alarm and police telegraph and telephone purposes, or if said wires are placed underground, the use of one duct in each conduit of the underground system of the grantee free of charge to the city, and all such wires shall be placed upon the poles or in the conduit so as not to interfere with the telephone service and shall not carry currents of voltage dangerous to telephone plant or telephone users. And the said grantee, its successors and assigns, agree to furnish, at such places as the Council may designate, free of charge, during the term of the rights and privileges hereby granted, one telephone in the City Marshal's office, one in the City Recorder's office, one in each Engine House, and such additional telephones at other locations as may be required for the exclusive use of the City in transacting its official business, not to exceed four in number. The said grantee further agrees to furnish wires in its underground and aerial plant to provide for the City watchman's time detector system and shall keep in repair and maintain said wires, also the magneto signalling devices located as stations throughout the city; but said maintenance shall not include replacement of any parts nor does it include the maintenance or repairs to the central office apparatus operated in connection therewith.

Section 6. In further consideration of the rights, privileges and franchises hereby granted, The Pacific Telephone and Telegraph Company, its successors and assigns,

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shall annually pay in advance to the City of Albany each and every year during the term of this franchise, the sum of One Hundred and Fifty Dollars (\$150.00), the first payment of which to be made at the date of grantee filing its acceptance of this franchise and the subsequent ones to be made on or before the 1st day of November each year thereafter, which payment shall be in lieu of all licenses or other charges which might be imposed or required by the City of Albany from The Pacific Telephone and Telegraph Company, its successors and assigns for the privilege of conducting a telephone and telegraph business in the City of Albany.

Section 7. That whenever any person has obtained permission of the proper city officials to use any of the streets of said City of Albany for the purpose of removing any building the said company or its assigns, upon forty-eight (48) hours notice from such person, and his agreement to pay actual cost thereof, shall raise or remove any of the said wires which may obstruct the removal of such house or building so as to allow the unobstructed passage of the same; and in case of the failure of the said company, its successors or assigns, to comply with the terms of such notice, the Superintendent of Streets or other proper officer of the City shall be and is hereby authorized to remove said wires at the expense of said Company, its successors or assigns.

Section 8. That in case it shall be necessary to cut or remove any of the said wires or other conductors of electricity or equipment of the said company in order to get fire ladders or other apparatus to a building during a city conflagration, the City shall not be liable for damage done to such wires, conductors or equipment.

Section 9. At the expiration of the term of this franchise, the City of Albany, at its election and upon the payment therefor of a fair valuation thereof, may purchase and take over to itself the property of the said The Pacific Telephone and Telegraph Company, 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, and should the City of Albany upon the termination of this franchise, exercise such right 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 Albany upon an ordinance duly enacted authorizing the same and upon the City of Albany paying to the said The Pacific Telephone and Telegraph Company, its successors and assigns, the valuation thereof. Such valuation shall be of all appurtenances, appliances, equipment, lines, lease-holds, buildings, stores and furniture and fixtures suitable and used by the Company for its purposes under the grant, basing such appraisement 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 Albany appointing one appraiser, The Pacific Telephone and Telegraph Company, its successors or assigns, appointing one appraiser, and these 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 10. The rights, privileges and franchises herein granted shall continue and be in force for the period of twenty (20) years from and after the date of the passage of this ordinance and the City of Albany hereby reserves the right to alter,

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change or amend this ordinance, or any of its provisions, at any time, subject to the rights of said Company or its assigns.

Section 11. This ordinance shall take effect and be in force from and after its passage, and the said grantee shall, within thirty (30) days of the passage of this ordinance, file with the Recorder of the City of Albany, its written acceptance of all the terms and conditions of this ordinance.

Passed by the Council November 28th, 1917.

Approved by the Mayor, December 3rd, 1917.

L.M. Curl  
Mayor.

Attest:

L.G. Levelling  
Recorder.

STATE OF OREGON, }  
County of Linn. } ss.

I, L.G. Levelling, Recorder of the City of Albany, in Linn County and State of Oregon, do hereby certify that the foregoing and annexed copy of Ordinance No. 916, has been by me carefully compared with the original Ordinance Bill No. 1001, now on file in my office and that it is a true and correct copy of all and the whole of said Ordinance Bill No. 1001 passed by the Council November 28th, 1917 and approved by the Mayor December 3rd, 1917.

WITNES my hand and official signature and the seal of the City of Albany, this 15th day of December, 1917.

[Signature]  
Recorder of the City of Albany.