

ORDINANCE BILL NO. 7 FOR 1992

ORDINANCE NO. 1045

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO TELEPHONE UTILITIES OF OREGON, INC., dba PTI COMMUNICATIONS, ITS SUCCESSORS AND ASSIGNS, A LICENSE AND FRANCHISE TO CONSTRUCT, PLACE, ERECT, LAY, MAINTAIN AND OPERATE IN, UPON, OVER, AND UNDER THE PRESENT AND FUTURE STREETS, ALLEYS, AVENUES, BRIDGES AND PUBLIC PLACES OF THE CITY OF SWEET HOME, LINN COUNTY, OREGON POLES, WIRES, CABLES, CONDUCTORS, AND OTHER APPLIANCES AND APPURTENANCES FOR ALL TELEPHONE, TELEGRAPH AND OTHER COMMUNICATION SERVICES TO THE CITY OF SWEET HOME, THE INHABITANTS THEREOF AND OTHER SUBJECT TO THE TERMS AND CONDITIONS AND TO THE MAKING OF THE PAYMENTS SPECIFIED IN THE ORDINANCE, AMENDING SWEET HOME ORDINANCE 997 AND, DECLARING AN EMERGENCY.

The City of Sweet Home does ordain as follows:

Section 1. The title of Ordinance 997 is amended to read as set out above in the title hereof.

Section 2. Section 1 of Ordinance 997 is amended to read as follows:

The City of Sweet Home, Linn County, Oregon, hereinafter called the City, does hereby grant to Telephone Utilities of Oregon, Inc., dba PTI Communications, and to its successors and assigns, hereinafter called the Grantee, a license and franchise for the period of three (3) years from and after its passage to construct, place, erect, lay, maintain, and operate in, upon, over and under the present and future streets, alleys, avenues, bridges, and public places of the City (all hereinafter referred to as the streets) poles, wires, cables, conductors, and other appliances and appurtenances for all telephone, telegraph, and other communication services to the City, the inhabitants thereof, and others and to persons and corporations beyond the limits of the city, subject to the terms and conditions and payments hereinafter specified. Such wires, conductors, and other appliances may be strung on poles or other fixtures above ground, direct buried, or underground in pipes or conduits, at the option of the City, and such other apparatus may be used as may be necessary or proper to operate and maintain same.

Section 3. Section 5 of Ordinance 997 is amended to read as follows:

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 or other large

object, the Grantee upon reasonable notice (as defined herein) 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 or object so as to allow the unobstructed passage of the same; and in case of the failure of Grantee to comply with the terms of this section, the superintendent of streets or other proper officer of the City is hereby authorized to remove said wires or cables at the expense of Grantee. Grantee shall be given no less than five (5) working days written notice by the party desiring to move such building or other objects. Said notice shall detail the route of movement of such buildings or other objects over and along the streets, alleys, avenues, thorough fares and public highways, and shall have the approval of the City. In approving the application for such moving, the City shall require that such moving shall be with as much haste as possible and shall not be unnecessarily delayed or cause Grantee unnecessary expense or delay. When acting in conformity with the foregoing, neither the City or any of its employees shall be held liable for the consequence of any act done in connection with the moving of said building or object or rearrangement of wires or cables or for the cost of rearranging the wires or cables.

Section 4. Section 6 of Ordinance 997 is amended to read as follows:

In case it shall be necessary to cut or remove any of the said wires, cables or other conductors or equipment of the Grantee, in order to get fire ladders or other apparatus to a building during a City conflagration, the said City shall not be liable for any damages done to such wires, cables or conductors or equipment. The City shall notify the Grantee of such incident within eight (8) hours from the time of occurrence. However, if the City fails to give the eight (8) hours notice this fact shall not cause the City to be liable for damages.

Section 5. Section 7 of Ordinance 997 is amended to read as follows:

In consideration of the right, privileges and franchise hereby granted, the Grantee shall pay to the City, a franchise fee or charge equivalent to seven (7) percent of the Grantee's gross tariffed local service revenues other than competitive services derived from customers located within the corporate limits of the City during the previous calendar quarter. The first payment shall be due within 60 days after ~~June 30~~, 1992, based on the gross tariffed local service revenues other than competitive services for the calendar quarter beginning

April 1, 1992. The franchise fee required by this section shall be due for each quarter year, or fraction thereof, within 60 days after the close of such quarter year or fraction thereof. The Grantee shall furnish to the City with each payment of franchise fee required by this section a written statement, under oath, executed by an officer of Grantee showing the amount of taxable revenues of the Grantee within the City for the period covered by the payment computed on the basis set out in this section. Such franchise fee as shall be applicable under this franchise will be accepted by the City from the Grantee also in payment of any license, privilege or occupation tax. Provided, that if Oregon law or administrative rules are changed to allow a higher franchise fee to be charged, including additional tax or charge on the telephone customer's bill, then the rate of the franchise fee set forth in this section shall be increased accordingly and the Grantee shall pay the City that higher fee.

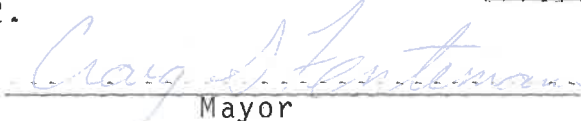
Section 6. Section 8 of Ordinance 997 is amended by adding at the end of said section the following sentence:

All installations, maintenance and repair shall be subject to the rules, regulations and supervision of the Grantee and shall comply with the National Electric Safety Code.

Section 7. The City of Sweet Home hereby grants to Telephone Utilities of Oregon, Inc., dba PTI Communications a non-exclusive utility telephone franchise for a period of three (3) years from and after the effective date of this ordinance on the terms and conditions as set forth in Sweet Home Ordinance 997 as amended hereby.

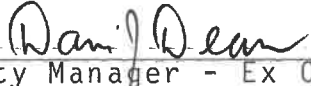
Section 8. The Grantee shall, within thirty (30) days from the date this ordinance takes effect, file with the City its written unconditional acceptance of this franchise and if the Grantee fails so to do, this ordinance shall be void. Inasmuch as it is necessary for the peace and health and safety of the citizens of Sweet Home, an emergency is hereby declared and this ordinance is put in full force and effect immediately upon its passage by the Council and approval by the Mayor.

PASSED by the Council and approved by the Mayor this 9th day of June, 1992.



Mayor

ATTEST:



City Manager - Ex Officio City Recorder