

ORDINANCE NO. 2773

AN ORDINANCE GRANTING A NON-EXCLUSIVE WATER UTILITY FRANCHISE TO PACIFIC POWER & LIGHT COMPANY, A CORPORATION, AND FIXING THE TERMS AND CONDITIONS OF SUCH FRANCHISE.

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

Section 1: DEFINITIONS AND EXPLANATION (1) As used in this Ordinance:

(a) "City" shall mean the City of Albany, Oregon, and the area within its boundaries, including its boundaries as extended in the future.

(b) "Construction" or "construct" shall mean and include the laying, installing, maintaining, testing, operating, extending, renewing, removing, replacing, repairing and using facilities comprising the water distribution system of the Grantee.

(c) "Council" shall mean the legislative body of the City.

(d) "Facilities" shall mean and include pipes, pipelines, mains, laterals, conduits, feeders, valves, meters, fixtures, connections and all attachments and appurtenances necessary or incidental thereto or in any way appertaining to the distribution and use of water.

(e) "Grantee" shall mean the corporation referred to in Section 2 of this Ordinance and its successors and assigns.

(f) "Streets" shall mean and include any and all streets, alleys, roads, highways, thoroughfares, viaducts, parkways and other public places within the City.

(2) As used in this Ordinance the singular number may include the plural and the plural number may include the singular.

(3) Unless otherwise specified in this Ordinance, any action authorized or required to be taken by the City may be taken by the Council or by an official or agent designated by the Council.

Section 2: RIGHTS GRANTED Upon the terms and conditions herein contained, the City hereby grants to Pacific Power & Light Company, a corporation, the right, privilege and franchise:

(1) To construct, maintain and operate a water utility system with the City;

(2) To install, maintain and operate on, over and under streets of the City facilities for the transmission and distribution of water to persons within the City and to other persons and territory beyond the boundaries of the City; and

(3) To transmit, distribute, sell and deliver water for all useful purposes.

Section 3: EXISTING FACILITIES All facilities maintained by the Grantee within the City on the date of the acceptance of this Ordinance shall be deemed covered by this Ordinance and the location of such facilities at such time is hereby approved.

Section 4: DURATION This franchise is granted for a term of twenty (20) years from the effective date of this Ordinance.

Section 5: FRANCHISE NOT EXCLUSIVE This franchise is not exclusive and shall not be construed as a limitation on the City: (1) In granting rights, privileges and authority to other persons similar to those granted by this Ordinance; and (2) in constructing, owning and operating any water system of the City.

Section 6: CONTINUOUS SERVICE The Grantee shall maintain and operate an adequate system for the transmission and distribution of water in the City. The Grantee shall use due diligence to maintain continuous and uninterrupted service which shall at all times conform to standards of service common in the business, but under no condition shall the Grantee be liable for interruption or failure of service caused by Act of God, unavoidable accident, necessities of operation, or other circumstances reasonable beyond its control, or due to no fault of its own.

Section 7: INDEMNIFICATION The Grantee shall indemnify and save harmless the City and its officers, agents and employees from any and all loss, cost and expense arising from damage to property and injury to or death of persons due to any negligent or wilful act or omission of the Grantee, its agents or employees in exercising the right, privileges and franchise hereby granted.

ORDINANCE NO. 2775, cont'd.

Section 8: STREET EXCAVATION AND RESTORATION (1) The Grantee shall have the right to make necessary excavations in the public streets for the purpose of constructing its facilities. Except in emergencies, prior to making an excavation in the traveled portion of any street and when required by the City in any untraveled portion of any street, the Grantee shall obtain from the City approval of the proposed excavation and its location.

(2) When any excavation is made by the Grantee, the Grantee shall promptly restore the affected portion of the street to the same condition in which it was prior to the excavation. The restoration shall be in strict compliance with specifications, requirements or regulations of the City in effect at the time of such restoration. If the Grantee fails promptly to restore the affected portion of the street to the same or substantially the same condition in which it was prior to the excavation, the City may make the restoration and the reasonable cost thereof shall be paid by the Grantee.

Section 9: MAINTENANCE OF FACILITIES All of the Grantee's facilities shall be constructed and at all times maintained in good order and condition, and in accordance with standard engineering practice and all applicable safety codes and lawful governmental regulations. The City shall have authority at all times in furtherance of the safety, convenience and welfare of the public, to control by appropriate regulations the location, elevation, depth and manner of construction and maintenance of the Grantee's facilities in, under and upon the City streets, subject to the provisions of any State laws applicable thereto; and the Grantee shall promptly conform with all such regulations.

Section 10: COMPENSATION As compensation for the franchise granted by this Ordinance, the Grantee shall pay the City on August 1 of each year during the term of this franchise the sum of Five Hundred Dollars (\$500.00).

Section 11: FIRE PROTECTION A joint committee consisting of five members, of whom two shall be appointed by the City and two by the Grantee, with the fifth to be chosen by the other four members, shall be established for the purpose of considering and recommending from time to time the most effective means of utilizing Grantee's present and future water facilities for fire prevention and control.

Section 12: EXTENSIONS The Grantee shall make such extensions and enlargements of its system of mains as may be reasonable required to meet the demands of the public for water service within the corporate limits of the City; provided, however, that such extensions and enlargements shall only be made in accordance with the terms and provisions of tariff schedules of the Grantee now or hereafter filed with the Public Utility Commissioner of Oregon.

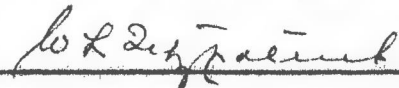
Section 13: ASSIGNMENT OF FRANCHISE This franchise may be transferred and assigned by the Grantee upon authority of the Public Utility Commissioner of Oregon or any other regulatory authority having jurisdiction thereof and shall be binding upon and unrevocable to the benefit of the successors and assigns of the Grantee.

Section 14: ACCEPTANCE The Grantee shall within thirty (30) days from the date this Ordinance takes effect, which shall be on the thirtieth day after its approval by the Mayor or passage over veto, file with the City its written unconditional acceptance of this franchise.

Section 15: REPEAL All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Passed by the Council: March 12, 1958

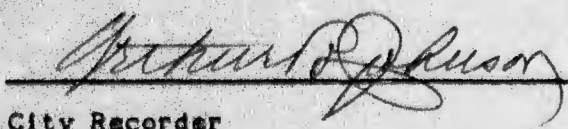
Approved by the Mayor: March 12, 1958



Mayor

Effective Date: April 11, 1958

ATTEST:



City Recorder