

ORDINANCE NO. 409

Granting Telephone franchise to H. Hector, et al, Trustees
passed June 27th 1905

Ord 409
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Telephone
Franchise to
H. Hector et
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6-27-05

An Ordinance granting H. Hector, W.L. Gate, N.H. Bateman
J.J. Denny and A. Henriksen Trustees, their successors
and assigns, the right to erect, maintain and operate in
the City of Albany, in streets, avenues, and
thoroughfares thereof, poles, wires and other con-
ductors for the transmission of electricity, on the
terms and conditions herein stated.

The People of the City of Albany do ordain as follows:
Sect. 1. That H. Hector, W.L. Gate, N.H. Bateman, J.J.
Denny and A. Henriksen Trustees, hereinafter designated
as trustees, their successors and assigns, and
they are hereby granted the right and privilege of erecting,
constructing, maintaining, operating and using in,
along and over all the streets, alleys, avenues and
thoroughfares of the City of Albany, except First Street, poles
wires and other conductors for the transmission of electricity
for telephone and telegraph purposes, and to string such
wires and conductors on poles or other supports above the
ground; provided that said trustees, their successors and
assigns, shall have the right to string or suspend said
wires or conductors across said First Street at all points
where streets, avenues or thoroughfares in said city
cross or intersect the said First Street; and provided, further,
that the City of Albany expressly reserves the
right and power to, at any time order and direct the
said trustees, their successors or assigns to place said
wires or other conductors of electricity underground when
in the judgement of the Council of the said City of Albany
the said wires become so numerous as to so require; and
the said trustees, their successors and assigns shall comply
with the terms of such order when made, and such work
shall be commenced within two months thereafter, or
all rights and privileges hereby granted shall thereupon cease.

Sect. 2. That said trustees, their successors and assigns,
shall have the right to make all needful and convenient
excavations in any of the streets, alleys, avenues and
thoroughfares of said City of Albany, except First Street
for the purpose of erecting and maintaining poles or other
supports for said wires and conductors for the purposes
aforesaid the location of such excavations for poles or
other supports for such wires to be subject to the approval
of the Committee on Streets & Public Property of the

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Council of the said city of Albany, all of said poles to be of uniform size & height and neatly painted, and to be put up & erected in a substantial, safe and workmanlike manner, and to be so placed as not to interfere with travel on or use of the said streets, alleys, avenues and thoroughfares, or with any object lawfully existing in any of the said streets, alleys, avenues or thoroughfares of the said city, subject however to the supervision and control of the Council of the City of Albany.

Sec. 3. That whenever the said trustees their 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 three days to as good condition as the same was before it was so disturbed or broken up; and that whenever it shall be necessary in the erection of such poles or any of them, to take up any sidewalk or to dig up the ground at the side or corner of any street, alley, avenue or thoroughfare of said City of Albany, the said trustees their successors or assigns, shall, after such poles are erected and without delay remove any and all debris caused or created by the erection of said poles, 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 & Public Property of the said City of Albany, or such other committee or official as the Council of the said City may designate, shall have the right to cause the said trustees, their successors or assigns, to move the location of any of said poles, wires or other conductors, whenever the public convenience shall require the location of the same elsewhere, the expense of such removal to be borne by said trustees, their successors or assigns.

Sec. 4. Nothing in this ordinance shall be construed so as to in any way prevent the proper authorities of said city from paving, grading, paving, planing or in any way repairing or altering any of the said streets, alleys, avenues or thoroughfares therein mentioned.

Sec. 5. In consideration of the rights and privileges herein granted, the said city, by its authorized officers, shall have the right, free

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of charge, to suspend upon the poles placed by the said trustees, their successors or assigns, in the streets, alleys, avenues and thoroughfares aforesaid, any and all wires which it may require for fire alarm or police service; and the said trustees, their successors and assigns, agree to furnish, in the said city of Albany at such places as the council of said city may designate, free of charge during the term of the rights and privileges hereby granted one telephone in the City Recorder's office and one in each fire engine house to be connected with the exchange of the said trustees their successors or assigns, and to be used only for city official business.

Sec. 6. That whenever any person has obtained permission of the proper city officials, to use any of the streets of the said City of Albany for the purpose of removing any building the said trustees, their successors and assigns, upon twenty-four hours notice from such person, shall remove or raise any of their said wires which may obstruct the removal of such building, so as to allow the free passage of the same; and in cases of the failure of the said trustees, their successors or assigns, to comply with the terms of such notice the Superintendent of streets or other proper officer of the City shall raise or remove said wires at the expense of said trustees, their successors or assigns.

Sec. 7. That in case it shall be necessary to cut any of the said wires or other conductors of electricity of the said trustees, their successors or assigns, in order to get fire ladders or apparatus to a building during a city conflagration, the city shall not be liable for the damage to such wires or other conductors of electricity.

Sec. 8. That the rights, privileges and franchise herein granted shall continue and be in full force for the period of twenty (20) years from the passage of this ordinance; provided that after this franchise has been in effect for a period of ten (10) years, then the said trustees, their successors and assigns hereby agree that for the remaining ten years of this franchise they will accept and agree to such modifications and changes of this ordinance as may be duly and legally made by ordinance in that behalf duly and

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legally enacted by the Council of the said City of Albany, provided, that such modifications and changes shall be the same in kind and effect as may at that time be granted to or imposed upon compelling companies, firms or corporations actually engaged in the same business.

Sec. 9. That before the said trustees, their successors or assigns, shall be allowed to lay any of its wires in the limits of said city, or shall make any excavations, or set any poles mentioned in this ordinance, within the limits of said city, they shall first file with the Recorder of said city their acceptance in writing of all the stipulations and conditions imposed by this ordinance, and shall also file therewith their waiver of all the rights and privileges granted them by the Council of the said city by ordinance No. 397. of said city, passed by the Council February 28th 1905 and approved by the Mayor February 28th 1905; and they shall commence work upon their said telephone system within one month from the date of the passage of this ordinance, or this ordinance shall be void.

Sec. 10. Nothing in this ordinance shall be construed to prevent the said city of Albany from granting telephone franchises and privileges to other persons, firms or corporations, as the city may see fit.

Sec. 11. and the said trustees, their successors and assigns, will indemnify and save harmless the said city against all damages, costs and expenses, whatever to which said city may be subject in consequence of the acts or neglect of said trustees, their successors or assigns, their agents or servants, in any manner arising from the rights and privileges granted herein by the city, and during the existence of this franchise the said trustees their successors or assigns shall not charge or collect any higher rental for telephones than the maximum rates now collected in said city for similar service, unless the Council shall order the wires of such telephone system placed under ground.

Sec. 12. The Council of the said city of Albany shall at all times have the power and right to reasonably regulate, in the public interest, the rights, privileges,

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and franchises hereby granted.
Sec. 13. This franchise is granted upon the express condition that the same shall not in any way be sold, assigned, transferred or in any way mortgaged, incumbered, leased or disposed of, either directly or indirectly, to any opposition company, and any attempt to sell, assign transfer, mortgage, incumber lease or dispose of the said franchise to any opposition telephone company whether directly or indirectly, shall work a forfeiture of this franchise and all rights under this ordinance.

Sec. 14 This ordinance shall be in full force and effect from and after its approval by the Mayor

Approved June 28th 1905

M. H. Davis
Mayor of the City of Albany

Attest: - J. S. Van Winkle,
Recorder of the City of Albany.



City Recorder's Certificate.

STATE OF OREGON,
COUNTY OF LINN.

I, J. S. VAN WINKLE, Recorder of the City of Albany, in Linn County, and State of Oregon, do hereby certify that the foregoing ~~and annexed copy~~ of

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has been by me carefully compared with the original *Ordinance bill No. 437*

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. 437, as passed by the City Council of the City of Albany, Oregon, June 27, 1905.*

Witness my hand and official signature and the seal of the City of Albany, this

28th day of *June*, 1905

J. S. Van Winkle
Recorder of the City of Albany.