

ORDINANCE NO. A- 322

AN ORDINANCE WHEREBY THE CITY OF CONWAY, ARKANSAS AND THE SOUTHWESTERN BELL TELEPHONE COMPANY, A MISSOURI CORPORATION, AGREE THAT THE TELEPHONE COMPANY SHALL CONTINUE TO OPERATE ITS TELEPHONE SYSTEM AND ALL BUSINESS INCIDENTAL TO OR CONNECTED WITH THE CONDUCTING OF A TELEPHONE BUSINESS AND SYSTEM IN SAID CITY, AND ERECT AND MAINTAIN ITS PLANT CONSTRUCTION AND APPURTENANCES ALONG, ACROSS, ON, OVER, THROUGH, ABOVE AND UNDER ALL PUBLIC STREETS, AVENUES, ALLEYS, PUBLIC GROUNDS AND PLACES IN SAID CITY, THAT THE CITY SHALL RECEIVE AN ANNUAL PAYMENT FROM THE TELEPHONE COMPANY, AND REPEALING ALL ORDINANCES AND AGREEMENTS IN CONFLICT HEREWITH;

WHEREAS, the City desires to enact and impose upon the Telephone Company a tax which shall be in lieu of all other licenses, charges, fees or special taxes other than the usual general or special ad valorem taxes; and

WHEREAS, the City is aware that an order of the Arkansas Public Service Commission was entered on December 10, 1957, in Docket U-1281 relating to the treatment by the Telephone Company of all City special taxes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION 1. The Southwestern Bell Telephone Company, its successors and assigns (hereinafter referred to as "Telephone Company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Conway, Arkansas (hereinafter referred to as "City"). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenance of a telephone business and system by the Telephone Company in said City shall remain as now constructed, subject to such changes as may be considered necessary by the City in the exercise of its inherent powers and by the Telephone Company in the conduct of its business, and said Telephone Company shall continue to exercise its right to place, remove, construct and reconstruct, extend and maintain its said plant and appurtenances as the business and purpose for which it is or may be incorporated may from time to time require, along, across, on, over, through, above and under all public streets, avenues, alleys, and the public grounds and places within the limits of said City as the same

from time to time may be established,

SECTION 2. The Telephone Company shall pay to the City on or before March 1, 1958, for the period January 1, 1958, to December 31, 1958, inclusive, and thereafter for like periods on or before each March 1st an amount determined by multiplying the number of telephones within the corporate limits of the City as of the last day of the preceding year by the sum of Eighty-Seven Cents (\$.87).

SECTION 3. The annual payment herein required shall be in lieu of all other licenses, charges, fees or impositions (Other than the usual general or special ad valorem taxes) which may be imposed by the City under authority conferred by law. The telephone company shall have the privilege of crediting such sums with any unpaid balance due said company for telephone services rendered to or facilities furnished to said City.

SECTION 4. The Telephone Company on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Telephone Company may require such payment in advance. The Telephone Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire charges,

SECTION 5. Permission is hereby granted to the Telephone Company to trim trees upon and overhanging streets, alleys, sidewalks and public places of said City so as to prevent the branches of such trees from coming into contact with the wires and cables of the Telephone Company, all the said trimming to be done under the supervision and direction of any City official to whom such duties have been or may hereafter be delegated.

SECTION 6. Nothing in this ordinance contained shall be construed to require or permit any electric Light or power wire attachments by the City or for the City. If light or power attachments are desired by the City or for the City, then a separate non-contingent agreement shall be a prerequisite to such attachments.

SECTION 7. Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privileges, nor shall

it affect any prior or existing rights of the Telephone Company to maintain a telephone system within the city.

SECTION 8. All other ordinances and agreements and parts of ordinances and agreements relating to the operation of or the right to operate a telephone system within said City are hereby repealed,

SECTION 9. The said Telephone Company shall have sixty (60) days from and after its passage and publication to file its written acceptance of this ordinance with the City Clerk, and upon such acceptance being filed, this ordinance shall be considered as taking effect and being in force from and after the date of its passage and publication. The ordinance shall continue in effect and be in force until terminated by the City or the Telephone Company as of the end of any year after giving not less than ~~sixty (60) days~~ <sup>SIX MONTHS W.D.</sup> notice in writing of intention to terminate.

PASSED THIS 11 day of FEB, 1958.

Approved: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

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WHEREAS, the City desires to enact and impose upon the Telephone Company a tax which shall be in lieu of all other licenses, charges, fees or special taxes other than the usual general or special ad valorem taxes; and

WHEREAS, the City is aware that an order of the Arkansas Public Service Commission was entered on December 10, 1957, in Docket U-1281 relating to the treatment by the Telephone Company of all City special taxes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION 1. The Southwestern Bell Telephone Company, its successors and assigns (hereinafter referred to as "Telephone Company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Conway, Arkansas (hereinafter referred to as "City"). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenance of a telephone business and system by the Telephone Company in said City shall remain as now constructed, subject to such changes as may be considered necessary by the City in the exercise of its inherent powers and by the Telephone Company in the conduct of its business, and said Telephone Company shall continue to exercise its right to place, remove, construct and reconstruct, extend and maintain its said plant and appurtenances as the business and purpose for which it is or may be incorporated may from time to time require, along, across, on, over, through, above and under all public streets, avenues, alleys, and the public grounds and places within the limits of said City as the same

from time to time may be established.

SECTION 2. The Telephone Company shall pay to the City on or before March 1, 1958, for the period January 1, 1958, to December 31, 1958, inclusive, and thereafter for like periods on or before each March 1st an amount determined by multiplying the number of telephones within the corporate limits of the City as of the last day of the preceding year by the sum of Eighty-Seven Cents (\$0.87).

SECTION 3. The annual payment herein required shall be in lieu of all other licenses, charges, fees or impositions (other than the usual general or special ad valorem taxes) which may be imposed by the City under authority conferred by law. The telephone Company shall have the privilege of crediting such sums with any unpaid balance due said company for telephone services rendered to or facilities furnished to said City.

SECTION 4. The Telephone Company on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Telephone Company may require such payment in advance. The Telephone Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

SECTION 5. Permission is hereby granted to the Telephone Company to trim trees upon and overhanging streets, alleys, sidewalks and public places of said City so as to prevent the branches of such trees from coming into contact with the wires and cables of the Telephone Company, all the said trimming to be done under the supervision and direction of any City official to whom such duties have been or may hereafter be delegated.

SECTION 6. Nothing in this ordinance contained shall be construed to require or permit any electric light or power wire attachments by the City or for the City. If light or power attachments are desired by the City or for the City, then a separate non-contingent agreement shall be a prerequisite to such attachments.

SECTION 7. Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privileges, nor shall

it affect any prior or existing rights of the Telephone Company to maintain a telephone system within the City.

SECTION 8. All other ordinances and agreements and parts of ordinances and agreements relating to the operation of or the right to operate a telephone system within said City are hereby repealed.

SECTION 9. The said Telephone Company shall have sixty (60) days from and after its passage and publication to file its written acceptance of this ordinance with the City Clerk, and upon such acceptance being filed, this ordinance shall be considered as taking effect and being in force from and after the date of its passage and publication. The ordinance shall continue in effect and be in force until terminated by the City or the Telephone Company as of the end of any year after giving not less than ~~thirty (30) days~~<sup>six (6) months</sup> notice in writing of intention to terminate.

PASSED this 1<sup>st</sup> day of Feb, 1958.

Approved: Edgar B. Parker  
Mayor

Attest: Walter D. Sumner  
City Clerk

WHEREAS the City Council of the City of Conway of Faulkner County, Arkansas, did on the 11 day of February A.D. 19 58, enact an ordinance entitled: **(Ordinance No. A-322.)**

AN ORDINANCE WHEREBY THE CITY Conway OF THE STATE OF ARKANSAS AND THE SOUTHWESTERN BELL TELEPHONE COMPANY, A MISSOURI CORPORATION, AGREE THAT THE TELEPHONE COMPANY SHALL CONTINUE TO OPERATE ITS TELEPHONE SYSTEM AND ALL BUSINESS INCIDENTAL TO OR CONNECTED WITH THE CONDUCTING OF A TELEPHONE BUSINESS AND SYSTEM IN SAID CITY, AND ERECT AND MAINTAIN ITS PLANT CONSTRUCTION AND APPURTENANCES ALONG, ACROSS, ON, OVER, THROUGH, ABOVE, AND UNDER ALL PUBLIC STREETS, AVENUES, ALLEYS, PUBLIC GROUNDS AND PLACES IN SAID CITY, THAT THE CITY SHALL RECEIVE AN ANNUAL PAYMENT FROM THE TELEPHONE COMPANY, AND REPEALING ALL ORDINANCES AND AGREEMENTS IN CONFLICT HEREWITH:

and

WHEREAS, said ordinance was on the 11 day of February A.D. 19 58, duly approved and signed by the Mayor of said City and the seal of said City thereto affixed and attested by the City Clerk:

NOW, THEREFORE, in compliance with the terms of said ordinance so enacted, approved and attested, the Southwestern Bell Telephone Company hereby accepts said ordinance and files this its written acceptance with the City Clerk of said City in his said office.

Dated this 24 day of March, 1958.

Approved:

SOUTHWESTERN BELL TELEPHONE COMPANY

[Signature]  
General Attorney

BY [Signature]  
Vice President and General Manager

Acceptance filed in the office of the City Clerk of \_\_\_\_\_

This 13 day of March A.D. 19 58

[Signature]  
City Clerk

Conway Ark.  
June 3, 1958.

Dear Mr. Bender:

Since our conversation the other day concerning the Franchise Tax for the City of Conway, I have had time to go over the ordinance and study its contents.

In Section 2 I find the following: "The Telephone Company shall pay to the City on or before March 1, 1958, for the period January 1, 1958, to December 31, 1958, inclusive, and thereafter for like periods on or before each March 1st an amount determined by multiplying the number of telephones within the corporate limits of the City as of the last day of the preceding year by the sum of Eighty-Seven Cents (\$.87)."

In Section 9 the ordinance says "the Telephone Company shall have sixty days to file its written acceptance of this ordinance with the City Clerk".

The acceptance of the ordinance has been filed so it seems to me that the Telephone Company owes the City Eighty-Seven Cents times the number of phones.

Very Truly,

Walter Dunaway, City Clerk

CC: Robert Henry  
Eigar Parker