

#13

AN ORDINANCE GRANTING TO THE EASTERN ILLINOIS TELEPHONE
COMPANY, SUCCESSORS AND ASSIGNS, CERTAIN RIGHTS IN THE
VILLAGE OF GIFFORD, ILLINOIS

BE IT ORDAINED by the President and Board of Trustees of the
Village of Gifford, Illinois, as follows:

Section 1. That the Eastern Illinois Telephone Company, its lessees, Successors and assigns, are hereby granted the right to construct, erect, renew, maintain and operate in, upon, along, across, under and over the streets, alleys, and public ways of the said Village of Gifford, Illinois, (hereinafter for convenience called the Municipality), lines of poles, anchors, wires, cables, conduits, vaults, laterals and other fixtures and equipment, and to use the same for the transmission of sounds and signals by means of electricity for the conduct of a general telephone business.

Section 2. The location and height above or the depth below the public thoroughfares of the existing lines of poles, anchors, wires, cables, conduits, vaults, laterals and other fixtures and equipment of said Company within the Municipality are hereby approved, and the same shall be maintained and operated under and subject to the provisions of this ordinance. Any change in or extension of any of said poles, anchors, wires, cables, conduits, vaults, laterals or other fixtures and equipment (herein referred to as "structures"), or the construction of any additional structures in, upon, along, across, under or over the streets, alleys and public ways of the Municipality shall be made under the direction of the Chairman of the Committee on Streets and Alleys of the Municipality, or such officer as may be designated from time to time by the governing body of the Municipality for that purpose, who shall, if the proposed change, extension or construction conforms to the provisions hereof, issue written permits therefor. The height above public thoroughfares of all aerial wires and cables hereafter constructed shall conform to the requirements of the Illinois Commerce

Commission or other regulatory body having jurisdiction thereof. All Structures hereafter installed shall be so placed, and all work in connection with such installation shall be so performed as not to interfere unreasonably with any ordinary travel on the highways of the Municipality or with any municipal water, sewer pipes or power lines then in place, and in case of bringing to grade or change of grade, or change of width of any street or alley, said Company, provided it is notified thereof in writing at least thirty (30) days prior to the commencement thereof, shall change its structures so as to conform thereto, except where such change of grade or the width of any street or alley is made in connection with the rearrangement, separation or alteration of railroad crossings or is incident to any such rearrangement, separation or alteration. The tops of all vaults constructed by said Company within the Municipality shall present an even surface with the pavement at the point where laid, and subject to the exception contained in the last preceding sentence, shall be lowered or raised by said Company to conform to the top of paving or improvements as required by the governing body of the Municipality whenever the grade of the street or alley in which any such vault is located may be at any time lowered or raised.

Section 3. Said Company, after doing any excavating, shall leave the surface of the ground in a neatly graded condition. All sidewalks, parkways or pavements disturbed by said Company shall be restored by it to as good condition as before said sidewalk, parkway or pavement was disturbed by it, and in the event that any such sidewalk, parkway or pavement shall become uneven, unsettled, or otherwise requires repairing, because of such disturbance by the Company, then said Company as soon as climatic conditions will permit, shall, promptly, upon receipt of notice from the Municipality so to do, cause such sidewalk, parkway or pavement to be repaired or restored to as good condition as before said sidewalk, parkway or pavement was disturbed by said Company. Said Company shall keep all structures which it shall construct by

virtue of this ordinance, in a reasonably safe condition at all times, and shall maintain such barriers and danger signals during the construction, repair or renewal work performed hereunder as will reasonably avoid damage to life, limb and property.

Section 4. The said Company shall, at its own expense, defend all suits that may be brought against the Municipality on account of or in connection with the violation by the Company of any of the obligations hereby imposed upon or assumed by it, or by reason of or in connection with any damage to life, limb or property as a result of any structures constructed by it under or by virtue of this ordinance, and shall save and keep harmless the Municipality from any and all damages, judgments, costs and expenses of every kind, that may arise by reason thereof; provided, that notice in writing shall be immediately given to said Company of any claim or suit against the Municipality which, by the terms hereof, the said Company shall be obligated to defend, or against which the Company has hereby agreed to save and keep harmless the Municipality and provided further that the Municipality shall furnish to said Company all information in its possession relating to said claim or suit, and cooperate with said Company in the defense of said claim or suit. The governing body of the Municipality may, if it so desires, assist in defending any such claim or suit, but solely under the direction of the Company or its attorneys, and the Company shall not be required to reimburse the Municipality for expenses incurred by it in case of the election so to assist.

Section 5. So long as said Company exercises and enjoys the rights granted to it hereunder, it will furnish to the Municipality, and for fire protection of Gifford Fire / ^{Protection} District in which said Village is located, one individual line business telephone for business of the Municipality and one individual line business telephone for the business of each fire station of said Fire Protection District located within the Village limits of Gifford. Said telephones shall be installed in such places within the Municipality as the governing body thereof shall from time to time direct by resolution. Application therefor shall be

made by the Municipality on the Company's usual form. The Company without charge and when directed by resolution of the governing body of the Municipality, shall change the location of any of said telephones, provided that no more than one such change of location in any one year of any telephone furnished hereunder shall be made by said Company without expense to the Municipality. In lieu of all or some of said individual line business telephones, the governing body of the Municipality may elect, by resolution, to have any other local flat rate business exchange service or facilities from time to time offered by the Company to its subscribers in the telephone exchange in which the Municipality is located, to the extent that the aggregate value of all telephone service and facilities so furnished hereunder, based upon the Company's lawful charges from time to time in effect therefor to said subscribers, does not exceed the value, on the same basis, of said individual line business telephones. "Local flat rate exchange service," as used in this section, shall not be construed to include any extended area service available to subscribers under an optional schedule. No liability shall attach to the Company with respect to the furnishing of said service or facilities, or on account of any failure or interruption of said service or facilities, except that the Company will restore such service and facilities promptly upon receipt of notice of such interruption or failure.

Section 6. The Company after five (5) days' written notice from the governing body of the Municipality to do so, shall remove or raise or lower its structures temporarily to permit the moving of a building or any other object along a highway, provided the benefited party or parties shall agree to pay the Company an amount equal to the actual cost of effecting such temporary changes in its structures; and provided further that, pending the determination of such actual cost, the benefited party or parties shall have deposited with the Company an amount equal to the cost as estimated by the Company. Should any amount of such deposit remain unexpended, after

deducting the actual cost involved, said amount shall be returned to the party making the deposit.

Section 7. In case said Company shall fail or neglect to comply with any or all of the provisions of this ordinance (unless by order of the Illinois Commerce Commission or of any other body, board, commission or court of competent jurisdiction, said Company is otherwise directed, or unless the compliance by said Company with such provision is prohibited or adjudged unlawful by an order of the Illinois Commerce Commission or by an order of any other body, board, commission or court of competent jurisdiction), the Municipality reserves the right to repeal this ordinance or rescind this contract, and forfeit the rights hereby created or sought to be created, provided that no such repeal, rescission or forfeiture shall exist or be claimed because of such failure or neglect, until written notice of such failure or neglect so claimed shall have been given to said Company, and a reasonable opportunity afforded it to comply with the provisions hereof or to prove that such compliance already exists. In the event that said Illinois Commerce Commission or any other body, board, commission or court of competent jurisdiction shall adjudge any provision or provisions hereof invalid or illegal, or direct a change by the Company in any matter or thing herein contained, such invalidity or illegality or change shall in no way effect the remaining provisions of this ordinance, or their validity, or legality, and this ordinance in all other respects shall continue in full force and effect, as if said provision or provisions had not been so adjudged invalid or illegal or such change directed.

Section 8. All grants, franchises, rights, licenses and privileges heretofore made or granted by the Municipality by ordinance or otherwise to said Company and all rights of said Company under grants, franchises, rights, licenses and privileges made by the Municipality to others from which said Company may have purchased any part of its poles, lines, equipment or plant,

are hereby revoked and repealed, it being the intention that this ordinance shall contain all grants, franchises, rights, licenses and privileges of said Company, and all obligations of said Company in connection therewith.

Section 9. Whenever the word "Company" or the words "Eastern Illinois Telephone Company" are used in this ordinance, they shall be construed to mean the Eastern Illinois Telephone Company, its lessees, successors and assigns, and this ordinance shall be binding upon and inure to the benefit of the said Company, its lessees, successors and assigns.

Section 10. It is agreed and made a condition of this ordinance that as part of the consideration for the granting of the same that the Company shall within two (2) years from the date hereof convert the Gifford Exchange from manual to dial telephone system and operation substantially in accordance with the plans and specifications therefor now on file with the Rural Electrification Administration in Washington, D. C. ; and that if the Company fails to meet the provisions of this section in said time, Municipality shall have the right to terminate this ordinance and all rights granted hereunder upon thirty (30) days written notice to the Company. It is also specifically provided that in any event this franchise and ordinance shall extend for the period of no longer than forty (40) years, and it shall ipso facto terminate upon the expiration of forty (40) years from the adoption hereof.

Section 11. This ordinance shall be in full force upon receipt by the Clerk of the Municipality, of the Company's written and unconditional acceptance thereunto authorized, under the corporate seal of said Company, and attested by its Secretary or Assistant Secretary, and upon publication as required by law. The Company shall pay the cost of publication of said ordinance.

PASSED this _____ day of _____ A. D. 1954.

Clerk

APPROVED this _____ day of _____ A.D. 1954.

President

Accepted this _____ day of _____ A.D. 1954.

EASTERN ILLINOIS TELEPHONE COMPANY

By _____
President

Attested:

Assistant Secretary