

ORDINANCE NO. 2009-1

WHEREAS, the City of Hamilton (hereinafter referred to as the "City") is empowered to enact ordinances in furtherance of its police powers, its duty to protect and to promote the general health and welfare of its citizens and is specifically empowered to regulate the use of the streets for the erection of telegraph, telephone, and all other systems of wires and conduits and generally to

control and regulate the use of the streets for any and all purposes.

WHEREAS, the governing body of the City does hereby find and declare that public convenience and necessity requires the granting of a franchise to use the streets for the erection of telegraph, telephone, and all other systems of wires and conduits.

WHEREAS, the governing body of the City does hereby find and declare that the privilege to use the streets, avenues, alleys, or public places of the City for the construction or operation of any public utility or private enterprise is a valuable privilege that should not be awarded without the levy of a franchise fee upon said privilege.

NOW, THEREFORE, for the foregoing purposes, and other legitimate purposes, BE IT ORDAINED BY THE CITY OF HAMILTON, ALABAMA, THROUGH ITS DULY ELECTED COUNCIL, as follows:

ARTICLE I. Franchise. In consideration of the benefits to accrue to the City and based upon a finding of public convenience and necessity, CenturyTel of Alabama, LLC, dba CenturyTel ("CenturyTel"), its successors, and assigns, is hereby given, granted, invested with the right, authority, privilege, consent and franchise to use the

streets, avenues, and public ways of the City for the purpose of engaging in the business of operating a telephone system including the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes, and other telephone conductors and fixtures necessary for the maintenance and operation of CenturyTel's business in the City.

ARTICLE II. Franchise Fee. During the Term of this Agreement, CenturyTel shall pay to City a fee equal to 3% of the Gross Revenues derived from the telephone services provided within the municipal boundaries of the City. This fee shall be paid quarterly and paid to the City within 45 days after the end of the preceeding quarter for which payment is made. CenturyTel may designate that portion of the subscriber's bill attributable to fees imposed pursuant to this Ordinance and recover from the subscriber as a separate line item of the bill.

ARTICLE III. Gross Revenues. The term Gross Revenues shall include the following: All revenue

collected by CenturyTel arising from or attributable to the provision of telephone service by CenturyTel within the City including, but not limited to: fees charged subscribers for any basic, optional, premium, and/or business service; installation and re-connection fees, maintenance fees, upgrade, downgrade or other fees.

ARTICLE IV. Non-exclusivity. The grant of the right, privilege and franchise herein to Centurytel, to use and otherwise occupy the streets, alleys and public ways and places for the purposes herein set forth shall be non exclusive and the City reserves the right to grant other franchises or rights in said streets, alleys, public ways or public places, to any other person, firm or corporation at any time. This franchise is not exclusive.

ARTICLE V. Duration/Term of Franchise. The duration and term of this franchise and all rights and authorities herein granted shall be for a maximum period of twenty (20) years from the date of the final adoption of this ordinance. This franchise may be terminated sooner in accordance with the provisions hereof.

This franchise and the rights, privileges and authority hereby granted shall take effect as the first day of the first month next following its final enactment and upon publication as herein stated. The operator shall,

within ten (10) days after the effective date, file with the City Clerk its unconditional acceptance of this franchise and promise to comply with and abide by all the provisions, terms and conditions. Such acceptance of promise shall be in writing duly executed and sworn to by or on behalf of the grantee before a notary public or other officer authorized by law to administer oaths. Should the operator fail to comply with the aforesaid, it shall acquire no rights, privileges or authority under this franchise whatever.

ARTICLE VI. Compliance with Applicable Laws. The grantee shall, at all times during the term of this franchise, be subject to and comply with all applicable laws, ordinances and regulations, including the lawful exercise of the police power by the City.

ARTICLE VII. Service Area. This franchise relates to the present territorial corporate limits of the City of Hamilton and to any area henceforth added thereto during the term of this franchise.

ARTICLE VIII. Police Power. It is expressly understood that, in granting this franchise the City of Hamilton does not waive or surrender any of its rights or police powers in exercising governmental control. The grantee shall

comply with all reasonable regulations and ordinances duly adopted pursuant to the police powers and governmental authority of the governing body of the City and the City, by entering into this franchise, does not subordinate any of its powers of governmental authority to the franchise herein being granted. Further, there is hereby reserved to the City every right and power which is required to be reserved by the provision of this ordinance or by any law of the City, and the operator, by its acceptance of any franchise, agrees to be bound thereby and to comply with any action or requirements of the City its exercise of such rights or powers heretofore or hereinafter enacted or established.

ARTICLE IX. Use of Streets.

(a) All transmission and distribution structures, lines, and equipment erected by the grantee within the City shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets.

(b) In case of a disturbance of any street, easement or paved area or other property the grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore such street, easement or paved area or other property in as good a condition as before the work involved in such a disturbance was done.

(c) If at any time during the period of a franchise the City shall lawfully elect to alter or change the grade of any street, the grantee upon reasonable notice by the City, shall remove, relay and relocate its pole, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(d) Any poles or other fixtures placed in or adjacent to any street by the grantee shall be placed in such manner as to comply with all requirements of the City.

(e) The grantee shall, at the request of any person holding a moving permit duly and lawfully issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of raising shall be made by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than forty-eight (48) hours notice to arrange for such temporary wire changes.

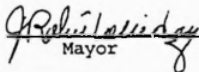
ARTICLE X. Non-Assignment. The rights and privileges herein granted to the operator shall not be assigned, sublet or transferred without the prior written consent of the City Council, such consent being duly adopted by resolution as spread upon the minutes of the City Council.

ARTICLE XI. Reservation of Rights. The City shall have the right to inspect the books, records, maps, plans,

income tax returns and other materials of the grantee at any time during normal business hours.

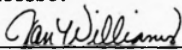
ARTICLE XII. Severability. If any section, subsection, sentence, clause, phrase, portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

ADOPTED and ORDAINED this the 2nd day of February, 2009.



Mayor

Attest:



City Clerk