

ORDINANCE NO. 4039

AN ORDINANCE to amend and reordain Ordinance No. 2165, to grant a one-year extension of franchise rights to Bell Atlantic-Virginia, Incorporated, formerly known as the Chesapeake and Potomac Telephone Company of Virginia.

WHEREAS, on March 22, 1977, the city council enacted Ordinance No. 2165 which granted a franchise to the Chesapeake and Potomac Telephone Company of Virginia and its successors and assigns "to use the streets, alleys, and other public places" of the City of Alexandria, "and to acquire, erect, maintain and use posts, poles, wires, manholes, ducts, cables, conduits, electrical conductors, fixtures, appliances, appurtenances, and all other necessary apparatus in, under, over and along the streets, alleys and public places of the city for the purpose of providing a telephone and telegraph service and system within the corporate limits of the city";

WHEREAS, Section 17 of Ordinance No. 2165 provided that the franchise rights and privileges provided by the ordinance were to continue for a term of twenty years from May 1, 1977;

WHEREAS, the twenty-year term contemplated in Ordinance No. 2165 expired on May 1, 1997;

WHEREAS, on March 18, 1997, the Virginia General Assembly approved legislation amending and reenacting sections 56-458 and 56-462 of the Code of Virginia, relating to payments by telephone companies to local governments for the use of the localities' rights-of-way (the A1997 Legislation@);

WHEREAS, the 1997 Legislation, which was to expire on July 1, 1998, prohibited cities in the Commonwealth from imposing on telephone companies any fees, including franchise, permit and inspection fees, and from requiring the provision of in-kind services or physical assets from such companies, in return for the right to use any public rights-of-way, except to the extent that such fees, in-kind services or physical assets were required to be provided by ordinance, permit, agreement or franchises as of February 1, 1997;

WHEREAS, due to the 1997 Legislation and in anticipation of new legislation being adopted during the 1998 session of the General Assembly, the city council enacted on October 25, 1997, Ordinance No. 3961 which extended the franchise granted by Ordinance No. 2165 to Chesapeake and Potomac Telephone Company of Virginia (then known as Bell Atlantic-Virginia, Incorporated (ABell Atlantic@)) and its successors and assigns for an additional two-year period until April 30, 1999;

WHEREAS, on July 1, 1998, the 1997 Legislation expired and was replaced with other amendments to sections 56-458 and 56-462 of the Code of Virginia, adopted by the General Assembly during its 1998 session, which established a fee system that localities could impose on telephone companies in return for their use of the localities' rights-of-way (the A1998 Legislation@);

WHEREAS, on June 13, 1998, the city council enacted an Ordinance No. 4011 which imposed the fee system authorized by the

1998 Legislation on Bell Atlantic, the successor to Chesapeake and Potomac Telephone Company of Virginia;

WHEREAS, due to other pressing business, Bell Atlantic and the city have been unable since the enactment of the 1998 Legislation to negotiate the terms of a new long-term franchise allowing Bell Atlantic to use the streets, alleys, and other public places of the city; and

WHEREAS, the city council has determined that it is in the public interest to extend for an additional one-year period the franchise granted by Ordinance No. 2165 to Bell Atlantic, as the successor to the Chesapeake and Potomac Telephone Company of Virginia, so to provide to staff of the city and Bell Atlantic additional time to negotiate a new long-term franchise; now, therefore

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That, pursuant to Article VII, Section 9 of the Virginia Constitution and Article 1 of Chapter 21 of Title 15.2 of the Code of Virginia, Section 17 of Ordinance No. 2165, which defines the term of the franchise that the ordinance grants to the Chesapeake and Potomac Telephone Company of Virginia and its successors and assigns, be, and the same hereby is, amended to set the term at 23 years, such that the franchise shall expire on April 30, 2000, unless sooner voluntarily surrendered by the franchisee with the consent of the city council, or unless sooner forfeited as provided by law.

Section 2. That Ordinance No. 2165, as amended by Section 1 of this ordinance, be, and the same hereby is, reordained.

Section 3. That this ordinance shall be effective upon the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

Introduction: 4/13/99  
First Reading: 4/13/99  
Publication: 4/14/99; 4/15/99  
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