ORDINANCE NO. 81-3

AN ORDINANCE AUTHORIZING CONTINENTAL TELEPHONE COMPANY OF ARKANSAS, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, MAINTAIN AND OPERATE A TELEPHONE SYSTEM WITHIN THE CITY OF ATKINS, ARKANSAS, AND LEVYING A FRANCHISE TAX.

BE IT ORDAINED by the Council of the City of Atkins, Arkansas:

SECTION 1. That permission be and is hereby granted to Continental Telephone Company of Arkansas, its successors and assigns, to construct, maintain and operate, its poles, posts, cables, wires and all other necessary overhead apparatus on, over and along; and its conduits, ducts, mains, pipes, cables, wires, manholes, distributing poles and all other necessary underground appliances on, in, under and through the streets, alleys and highway, within the limits of the CITY OF ATKINS, STATE OF ARKANSAS, for a period of twenty-five (25) years from the date of the enactment hereof; and to use the property of other companies and permit other companies to use its property upon such arrangements as the two companies may agree, subject to the following conditions:

SECTION 2. That all poles erected by said Company shall be located so they will not interfere with the safety or convenience of persons traveling on or over the said streets, alleys and highways; and in the work of installing and maintaining its underground system, said Company shall not open or encumber more of any street, alley or highway than will be necessary to enable it to perform same with proper economy and efficiency; nor shall it permit such opening or encumbrance to remain for a longer period than shall be necessary to do the work for which said opening shall have been made.

SECTION 3. That all work done under the provisions of this Ordinance in said City, shall be subject to the supervision of the City Engineer or some other representative appointed by said Council and said Company shall replace and properly relay any sidewalk or street pavement which may have been displaced or damaged by it in the construction and maintenance of its system in said City.

SECTION 4. That said Company shall maintain all poles, cables, wires, conduits, ducts, mians, pipes, manholes, distributing poles and all other apparatus erected or constructed under the provisions of this Ordinance, in good and safe order and condition; and shall at all times fully indemnify, protect, and save harmless the said City from and against all loss and necessary expenditures arising from the erection, construction and maintenance of its system in said City, or from its neglect or failure to maintain the said apparatus in good and safe order and condition.

SECTION 5. That nothing in this Ordinance shall be construed to grant unto the said CONTINENTAL TELEPHONE COMPANY OF ARKANSAS, any exclusive right, or to prevent a grant of similar privileges to other companies.

SECTION 6. Beginning in 1981 and thereafter so long as CONTINENTAL TELEPHONE COMPANY OF ARKANSAS, its successors or assigns, shall operate a telephone system within the City, it shall pay to the City a franchise tax in an amount equal to 4.25 % of basic local service excluding extension, terminal equipment, toll, yellow pages and other miscellaneous equipment revenues within the corporate boundaries of the City at the end of the preceding calendar quarter, payment to be made to the City within thirty (30) days of the end of each calender quarter; the first remittance to be made within thirty (30) days of March 31, 1981; provided, the amount of the tax levied herein by the City may be collected by the Telephone Company from those of the Telephone Company customers receiving local exchange telephone service within the corporate boundaries of the City of Atkins, in accordance with the tariffs of the telephone company and the rules, regulations and orders of the Arkansas Public Service Commission. This Ordinance does not restrict the City from the right to alter the tax, upon proper notification in advance, to the Telephone Company.

SECTION 7. It is expressly agreed and understood by the City of Atkins and Continental Telephone Company of Arkansas that the aforesaid payment shall constitute and be considered as complete payment and discharge by Continental Telephone Company of Arkansas, its successors

and assigns, of all licenses, fees, charges, impositions or taxes of any kind (other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and taxpayers) which are now, or might in the future, be imposed by the City of Atkins under authority conferred upon the City of Atkins by law. In the event such other taxes are imposed by the City of Atkins, the obligation of Continental Telephone Company of Arkansas to pay the City of Atkins the franchise tax set out in SECTION 6 of this Ordinance shall be immediately terminated.

SECTION 8. Permission is hereby granted to the Continental Telephone Company of Arkansas, to trim trees upon and overhanging streets, alleys, sidewalks and other places within the City so as to prevent the branches of such trees from coming into contact with the wires and cables of the telephone company. All of said trimming shall be done under the supervision and direction of any city official to whom said duties have been, or may be, delegated.

SECTION 9. The City of Atkins shall have the right to examine and verify from the records of the Continental Telephone Company of Arkansas any data relating to the gross revenues of the telephone company derived from telephone service provided by the telephone company within the boundaries of the City of Atkins.

SECTION 10. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, are hereby repealed.

This Ordinance shall take effect on January 1, 1981.

Stephen Kent

STEPHEN KENT, MAYOR

ATTEST:

Dallas Swain

DALLAS SWAIN, CITY CLERK