

ORDINANCE NO. 403

AN ORDINANCE granting Puget Sound Energy, Inc., a Washington corporation, its successors and assigns, the right, privilege, authority and franchise to set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along, across and through the Franchise Area to provide for the transmission, distribution and sale of natural gas and electric energy for power, heat and light, and any other purposes for which natural gas and electric energy may be used.

NOW, THEREFORE, for and in consideration of the mutual benefits and the terms and conditions of the below Franchise agreement, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN, AS FOLLOWS:

Section 1. Definitions.

1.1 Where used in this franchise (the "Franchise") the following terms shall mean:

1.1.1 "PSE" means Puget Sound Energy, Inc., a Washington corporation, and its successors and assigns.

1.1.2 "City" means the City of Lakewood, an optional code city of the State of Washington, and its successors and assigns.

1.1.3 "Days" means calender days.

1.1.4 "Franchise Area" means any, every and all of the roads, streets, avenues, alleys and highways of the City as now laid out, platted, dedicated or improved; and any, every and all roads, streets, avenues, alleys and highways that may hereafter be laid out, platted, dedicated or improved within the present limits of the City and as such limits may be hereafter extended.

1.1.5 "Facilities" means, collectively, any and all (i) natural gas distribution systems, including but not limited to, gas pipes, pipelines, mains, laterals, conduits, feeders, regulators, valves, meters, meter-reading devices, fixtures, and communication systems; (ii) electric transmission and distribution systems, including but not limited to, poles (with or without crossarms), wires, lines, conduits, cables, braces, guys, anchors and vaults, meter-reading devices, fixtures, and communication systems; and (iii) any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or under ground.

1.1.6 "Ordinance" means Ordinance No. 403, which sets forth the terms and conditions of this Franchise.

1.1.7 "Public Works Director" means the head of the Public Works Department or his/her designee.

1.1.8 "Tariff" means "tariff" as that term is defined in WAC 480-80-030(3), or such similar definition describing rate schedules, rules and regulations relating to charges and service as may hereinafter be adopted by the regulatory authority with jurisdiction under the laws of the State of Washington, over public service companies.

1.1.9 "WUTC" means the Washington Utilities and Transportation Commission or such successor regulatory agency having jurisdiction over public service companies.

Section 2. Facilities Within Franchise Area.

2.1 The City does hereby grant to PSE the right, privilege, authority and franchise to set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along, across and through the Franchise Area to provide for the transmission, distribution and sale of natural gas and electric energy for power, heat, light and such other purposes for which natural gas and electric energy may be used.

Section 3. Noninterference of Facilities.

3.1 PSE's Facilities shall be located, constructed, installed, maintained and repaired within the Franchise Area in accordance with applicable safety standards, and so as not to unreasonably interfere with the free and safe passage of pedestrian and/or vehicle traffic therein or with the reasonable ingress or egress to properties abutting thereto and in accordance with the laws of the State of Washington. PSE shall exercise its rights within the Franchise Area in accordance with applicable City codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded PSE by such City codes and ordinances.

3.2 In the event that the Public Works Director reasonably determines, after providing written notice to PSE and a reasonable opportunity for PSE to respond to his or her concerns, that any one or more of PSE's Facilities within the Franchise Area interferes with the free and safe passage of pedestrian and/or vehicular traffic therein or with the reasonable, ingress or egress to properties abutting thereto, then PSE shall promptly take such action as is reasonably necessary to eliminate such interference. In so doing, the City shall fully cooperate with PSE. In the event such interference requires relocation of PSE facilities within the Franchise Area, such relocation shall be accomplished in accordance with Section 9 below. Any such interference, resulting from new development, with ingress or egress to properties abutting the Franchise Area in proximity to PSE's Facilities existing within the Franchise Area prior to the development shall be subject to Section 9.6.

3.3 During the term of this Franchise and with respect to poles which are Facilities and which are wholly owned by PSE and which are within the Franchise Area, the City may, subject to PSE's prior written consent, which consent shall not be unreasonably withheld, install

and maintain City-owned overhead wires upon such poles for signal interconnect and communication capabilities for municipal purposes (e.g. police, fire, and public safety communications). The foregoing rights of the City to install and maintain such wires are further subject to the following:

3.3.1 Such installation and maintenance shall be done by the City at its sole risk and expense in accordance with all applicable laws (including, but not limited to, RCW 70.54.090), and subject to such reasonable requirements as PSE may specify from time to time (including without limitation, requirements accommodating PSE's Facilities or the facilities of other parties having the right to use PSE's Facilities); and

3.3.2 PSE shall have no obligation under Section 12 (or arising under the purview of Section 12) in connection with any City-owned wires so installed or maintained.

3.3.3 PSE shall not charge the City a fee for the use of such poles as a means of deriving revenue therefrom; provided however, nothing herein shall require PSE to bear any cost or expense in connection with such installation and maintenance by the City including PSE's administrative review of and consent to City's request to make use of such poles.

3.4 PSE shall provide the City, upon the City's reasonable request, copies of available drawings in use by PSE showing the location of its Facilities within the Franchise Area. As to any such drawings so provided, PSE does not warrant the accuracy thereof and, to the extent the location of Facilities are shown, such Facilities are shown in their approximate location. With respect to any excavations within the Franchise Area undertaken by or on behalf of PSE or the City, nothing herein is intended (nor shall be construed) to relieve either party of their respective obligations arising under applicable law with respect to determining the location of utility facilities.

Section 4. Dangerous Conditions, Authority for the City to Abate

4.1 In the event that PSE's Facilities or operations cause or contribute to a condition that appears to endanger any person or substantially impair the lateral support of the Franchise Area or public or private property adjacent thereto, the Public Works Director may direct PSE, at no charge or expense to the City, to promptly take such action as may be reasonably necessary to resolve such condition to eliminate such endangerment. Such directive may include compliance within a prescribed period of time.

4.2 In the event PSE fails to promptly take action as directed by the City pursuant to Section 4.1, or fails to fully comply with such direction, or if emergency conditions exist which require immediate action to prevent imminent injury or damages to persons or property, the City may take action as it reasonably believes is necessary with respect to PSE's Facilities or operations to protect persons or property and in such event PSE shall be responsible to reimburse the City for its costs incurred in so doing. With respect to PSE's gas facilities, the City's authority to act upon PSE's Facilities hereunder is specifically limited to actions, taken by trained emergency response personnel, to stop the flow of natural gas actively contributing to a dangerous condition by closing the natural gas supply valve at a meter or appliance.

Section 5. Permit Required

5.1 Whenever PSE works in the Franchise Area for purposes of installation, construction, repair, maintenance or relocation of its Facilities, it shall apply to the City for a permit to do so in accordance with all ordinances and regulations of the City. In no case shall any such work commence within the Franchise Area without a permit, except as otherwise provided in this Franchise.

5.2 PSE shall at all times post and maintain proper barricades and comply with all applicable safety regulations during any period of construction or maintenance activities within the right-of-way as required by City or state regulations, including RCW 39.04.180, for the construction of trench safety systems.

5.3 In the event of any emergency where any Facility located in the Franchise Area are broken or damaged, or if PSE's work area within the Franchise Area is in such a condition as to endanger any person or property, PSE shall immediately take any necessary emergency measures to repair or remove its Facilities or otherwise make its work area safe without first applying for and obtaining a permit as required by Section 5.1. This provision shall not relieve PSE from later obtaining any necessary permit for the emergency work. PSE shall apply for the required permit the next business day following the emergency work or, in the case of an extended state of emergency, as soon thereafter as practical.

Section 6. Restoration

6.1 PSE shall, after any installation, construction, relocation, maintenance, or repair of Facilities within the Franchise Area, promptly restore the Franchise Area to at least the same condition as existed immediately prior to any such installation, construction, relocation, maintenance or repair in accordance with City standards at its sole cost and expense. All survey monuments which are to be disturbed or displaced by such work shall be referenced and restored per WAC 332-120, as the same now exists or may hereafter be amended, and all pertinent federal, state and City standards and specifications. The Public Works Director shall have final approval of the condition of the Franchise Area after restoration.

6.2 If it is determined that PSE has failed to restore the Franchise Area in accordance with Section 6, the City shall provide PSE with written notice including a description of actions the City reasonably believes necessary to restore the Franchise Area. If the Franchise Area is not restored in accordance with the City's notice within thirty (30) days of that notice, the City, or its authorized agent, may restore the Franchise Area. PSE shall be responsible for all costs and expenses incurred by the City in restoring the Franchise Area in accordance with this section. The remedy granted to the City under this section shall be in addition to those otherwise provided by this Franchise.

6.3 All work by PSE pursuant to this Section 6 shall be performed in accordance with the permit issued by the City, together with the laws of the State of Washington, Lakewood

Municipal Code and applicable regulations and standards of the City as the same now exists or as may be hereafter amended or superseded.

Section 7. Bonding Requirement

7.1 Before undertaking any of the work authorized by this Franchise, PSE shall furnish an on-going performance bond executed by PSE and a corporate surety authorized to do surety business in the State of Washington, in a sum to be set and approved by the Public Works Director as reasonably sufficient to ensure performance of PSE's obligations under this Franchise. The bond shall be conditioned so that PSE shall observe all the covenants, terms and conditions and faithfully perform all of the obligations of this Franchise, and to restore or replace any defective work or materials discovered in the restoration of the Franchise Area within a period of two (2) years from the final City inspection date of any such restoration. PSE may meet the obligations of this section with one (1) or more bonds acceptable to the City. In the event that a bond furnished pursuant to this section is canceled by the surety, after proper notice and pursuant to the terms of said bond, PSE shall, prior to the expiration of said bond, procure a replacement bond which complies with the terms of this section.

7.2 With respect to undertaking any of the work authorized by this Franchise, in the event PSE fails to perform its obligations under this Franchise and further fails to cure its deficiency within a reasonable period of time after receipt of written notice of such deficiency by the City, then the City may use any bond(s) furnished by PSE pursuant to Section 7.1 to cure such deficiency. Neither the amount of such bond(s) nor the City's use thereof shall limit the City's full recovery from PSE of costs incurred by the City to cure such deficiency.

7.3 In the event the City makes use of such bond(s) furnished by PSE pursuant to Section 7.2, the City shall promptly provide written notice of same to PSE. Within thirty (30) days of receipt of such notice, PSE shall replenish or replace such bond(s) as provided in Section 7.1.

7.4 The rights reserved to the City by this Section 7 are in addition to other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding, or exercise of right under this Section 7 shall constitute an election or waiver of any rights or other remedies the City may have.

Section 8. Underground Installation of Facilities

8.1 This Section 8 shall govern all matters related to underground installation of PSE's Facilities within the Franchise Area.

8.2 PSE acknowledges that the City desires to promote a policy of underground installation of Facilities within the Franchise Area. The City acknowledges that PSE provides electrical and gas service on a non-preferential basis subject to and in accordance with applicable Tariffs on file with the WUTC. Subject to and in accordance with such Tariffs, PSE will

cooperate with the City in the formulation of policy and development regulations concerning underground installation of PSE's Facilities within the Franchise Area.

8.3 New extensions of electric Facilities that operate at 15,000 volts (15kV) or less constructed by PSE within the Franchise Area during the term of this Franchise shall be located underground subject to and in accordance with applicable Tariffs on file with the WUTC; provided that extensions of existing overhead Facilities of up to five spans or 500 feet (whichever is less) may, subject to the City's prior written consent which shall not be unreasonably withheld, be installed overhead in locations having other existing overhead utilities.

8.4 If, during the term of this Franchise, the City shall direct PSE to replace (convert) its overhead electric distribution Facilities (15kV or less) then existing within the Franchise Area with underground Facilities, such underground conversion shall be arranged and accomplished subject to and in accordance with applicable Tariffs on file with the WUTC.

Section 9. Relocation of Facilities.

9.1 Whenever the City undertakes (or causes to be undertaken at City expense) the construction of any public works improvement within the Franchise Area or the Public Works Director reasonably determines that PSE's Facilities interfere with the free and safe passage of pedestrian and/or vehicular traffic pursuant to Section 3 above, and such public works improvement or interference necessitates the relocation of PSE's Facilities then existing within the Franchise Area, the City shall:

- (i) provide PSE, within a reasonable time prior to the City's commencement of activities requiring such public works improvement, written notice requesting such relocation; and
- (ii) provide PSE with copies of relevant portions of the City's plans and specifications for such public works improvement.

After receipt of such notice and such plans and specifications, PSE shall relocate such Facilities within the Franchise Area at no charge to the City. If, during the construction of any such public works improvement, an emergency posing a threat to public safety or welfare, or a substantial risk of severe economic consequences to the City, arises requiring the relocation of PSE's Facilities within the Franchise Area, the City shall give PSE notice of the emergency as soon as reasonably practicable. Upon receipt of such notice from the City, PSE shall endeavor to respond as soon as reasonably practicable to relocate the affected Facilities at no charge to the City.

9.2 The City shall act in good faith and shall use its best efforts to provide sufficient space within the Franchise Area for the safe and efficient installation, operation, repair and maintenance of the relocated Facilities. PSE shall act in good faith and shall use its best efforts to install relocated Facilities in such space within the Franchise Area, consistent with prudent utility

practice. If the City and PSE agree that there is not sufficient space for the relocated Facilities in the existing Franchise Area, then, unless otherwise mutually agreed by the City and PSE, the City shall provide sufficient space for the relocated Facilities by obtaining additional right-of-way or other equivalent rights mutually agreeable to the City and PSE, which shall be Franchise Area, title of which shall be in the City's name.

9.3 PSE may install relocated Facilities on property outside of the Franchise Area, the rights for which shall be obtained by PSE at no expense to the City, if:

(i) notwithstanding the use of best efforts by the City and PSE as outlined above, the City and PSE do not agree whether there is or will be sufficient space within the Franchise Area for the relocated Facilities, or

(ii) locating such relocated Facilities within such space within the Franchise Area would be inconsistent with prudent utility practice.

The City and PSE shall each act in good faith and use their respective best efforts to mutually agree on the location of such relocated Facilities outside of the Franchise Area. Absent such mutual agreement, nothing in this Section 4 shall limit the rights of the City or PSE with respect to acquisition or use of property rights outside of the Franchise Area.

9.4 If the City requires the subsequent relocation of any Facilities within five (5) years from the date of relocation of such Facilities pursuant to Sections 9.1-9.3, the City shall reimburse PSE for all costs incurred by PSE in connection with such subsequent relocation.

9.5 PSE shall have the right as a condition of any relocation described in this Section 9.5 to require such person or entity other than the City to make payment to PSE, at a time and upon terms acceptable to PSE, for any and all costs and expenses incurred by PSE in the relocation of PSE's Facilities whenever:

(i) any person or entity, other than the City, requires the relocation of PSE's Facilities to accommodate the work of such person or entity within the Franchise Area, including but not limited to activities relating to development, roadway frontage improvements or mitigation of impacts; or

(ii) the City requires any person or entity to undertake work (other than work undertaken at the City's cost and expense) within the Franchise Area and such work requires the relocation of PSE's Facilities within the Franchise Area.

9.6 Any condition or requirement imposed by the City upon any other person or entity (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits obtained pursuant to any zoning, land use, construction or other development regulation) which requires the relocation of PSE's Facilities within the

Franchise Area shall be a condition or requirement causing relocation of PSE's Facilities to occur subject to the provisions of Section 9.5 above; provided, however:

(i) in the event the City reasonably determines and notifies PSE that the primary purpose of imposing such condition or requirement upon such person or entity is to cause the construction of a public works improvement within a segment of the Franchise Area on the City's behalf, and

(ii) such public works improvement is otherwise reflected in the City's adopted Six-Year Capital Improvement Program; Transportation Improvement Program; or Transportation Facilities Program;

then only those costs and expenses incurred by PSE in connecting such relocated Facilities with PSE's other Facilities shall be paid to PSE by such person or entity, and PSE shall otherwise relocate its Facilities within such segment of the Franchise Area in accordance with Sections 9.1-9.3.

9.7 As to any relocation of PSE's Facilities whereby the cost and expense thereof is to be borne by PSE in accordance with Sections 9.1-9.3, PSE may, after receipt of written notice requesting such relocation, submit in writing to the City alternatives to relocation of its Facilities. Upon the City's receipt from PSE of such written alternatives, the City shall evaluate such alternatives and shall advise PSE in writing if one or more of such alternatives is suitable to accommodate the work which would otherwise necessitate relocation of PSE's Facilities. In evaluating such alternatives, the City shall give each alternative proposed by PSE full and fair consideration with due regard to all facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. No alternatives proposed by PSE shall be evaluated by the City in an arbitrary or capricious manner. In the event the City determines that such alternatives are not appropriate, PSE shall relocate its Facilities as otherwise provided in Sections 9.1-9.3.

9.8 Nothing in this Section 9 shall require PSE to bear any cost or expense in connection with the location or relocation of any Facilities existing under benefit of easement or other prior rights not derived from this Franchise.

Section 10. Records of Installation and Planning

10.1 Upon the City's reasonable request, PSE shall provide to the City copies of available plans for improvements, relocations and conversions to its Facilities within the Franchise Area; provided, however, any such plans so submitted shall be for informational purposes only and shall not obligate PSE to undertake any specific improvements within the Franchise Area, nor shall such plan be construed as a proposal to undertake any specific improvements within the Franchise Area.

10.2 Upon the City's reasonable request, PSE shall provide to the City copies of available drawings in use by PSE showing the approximate location of PSE's Facilities at specified locations within the Franchise Area. PSE shall further provide, upon the City's reasonable request in connection with the City's design of new streets, intersections and/or other municipally funded public works projects and major renovations of existing streets and intersections, field marking of PSE's underground Facilities within the Franchise Area, if such Facilities can be so field marked with reasonable accuracy using devices designed to respond to the presence of PSE's underground Facilities. Notwithstanding the foregoing, however, PSE does not warrant the accuracy or sufficiency of any such drawings or field markings or other information provided by PSE, and PSE shall not be liable to the City or others for any errors or defects in the same.

10.3 In addition, whenever PSE and the City agree that it is mutually beneficial to both parties in connection with the design of new streets, intersections and/or municipally funded public works projects and major renovations of existing streets and intersections, PSE shall verify the actual location of its underground Facilities within the Franchise Area by excavating, including pot holing, at no expense to the City.

10.4 Notwithstanding the foregoing, nothing in this Section 10 is intended (nor shall be construed) to relieve either party of their respective obligations arising under applicable law with respect to determining the location of utility facilities.

Section 11. Vegetation Management

11.1 PSE shall, on an annual basis, provide the City a list of locations within the Franchise Area at which PSE anticipates performing vegetation management activities; provided that such list shall not limit PSE's right under this Franchise to cut, trim or otherwise remove vegetation at any time within the Franchise Area which, due to proximity to PSE's facilities, pose an imminent threat to public safety or the reliable operation of PSE's facilities.

11.2 PSE shall, in coordination with the City, identify vegetation species appropriate for location in proximity to PSE's facilities and shall cooperatively act with the City to promote use of such identified species within and adjacent to the Franchise Area.

Section 12. Indemnification

12.1 PSE shall indemnify and hold the City harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another, to the extent such injury or damage is caused by the negligence of PSE, its agents, servants or employees in exercising the rights granted to PSE in this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the City, the City shall promptly notify PSE thereof, and PSE shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the City based upon any such claim or demand, the City shall likewise promptly notify PSE thereof, and PSE shall have the right, at its election and its sole cost and

expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

Section 13. Insurance

13.1 PSE shall procure and maintain for the duration of the Franchise, insurance, or in lieu thereof provide self-insurance, against all claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to PSE, its agents, representatives or employees. PSE shall provide certificate(s) of insurance (Form CG2010 ISO or equivalent) and/or evidence of self-insurance, together with an endorsement naming the City, its officers, elected officials, agents, employees, representatives, consultants and volunteers as additional insureds, to the City for its inspection prior to the commencement of any work or installation of any Facilities pursuant to this Franchise. Such certificate(s) of insurance and/or evidence of self-insurance shall evidence the following minimum coverages:

(i) Commercial general liability insurance or excess liability insurance, including coverage for premises operations, explosions and collapse hazard, underground hazard and products completed hazard, written on an occurrence basis, with limits not less than:

- A. \$2,000,000 for bodily injury or death to each person; and
- B. \$2,000,000 for property damage resulting from any one accident.

(ii) Automobile liability for owned, non-owned and hired vehicles with a limit of \$2,000,000 for each person and \$2,000,000 for each accident.

(iii) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$2,000,000.

13.2 PSE shall maintain the liability insurance policies required by this Section 13 throughout the term of this Franchise. Any deductibles or self-insured retentions must be declared to the City. Payment of deductibles and self-insured retentions shall be the sole responsibility of PSE.

13.3 PSE's insurance shall be primary insurance with respect to the City, its officers, elected officials, agents, employees, representatives, consultants and volunteers. Any insurance maintained by the City, its officers, elected officials, agents, employees, representatives, consultants and volunteers shall be in excess of PSE's insurance and shall not contribute with it.

13.4 The cancellation clause of any certificate(s) of insurance (ACORD Form 25 or equivalent) provided to the City pursuant to Section 13.1 shall include the following provision:

“Should any of the policies described by this certificate be canceled before the expiration date thereof, the issuing company will provide at least thirty (30) days written notice thereof to the certificate holder.”

13.5 In the event any of the insurance required by this Section 13 is canceled or otherwise not renewed during the term of this Franchise, PSE shall promptly acquire replacement insurance or shall utilize self insurance to restore and maintain the amount of coverage required by this Section 13 and shall promptly provide to the City certificate(s) of insurance or evidence of self insurance as provided in this Section 13 as may be applicable.

Section 14. Administrative fees and Reimbursement of Costs.

14.1 As specifically provided by RCW 35.21.860, the City may not impose a franchise fee or any other fee or charge of whatever nature or description upon PSE. However, as provided in RCW 35.21.860, the City may recover from PSE actual administrative expenses incurred by the City that are directly related to: (i) receiving and approving a permit, license or this Franchise, (ii) inspecting plans and construction, or (iii) preparing a detailed statement pursuant to Chapter 43.21C RCW.

Section 15. Reservation of Easement in Event of Vacation.

15.1 In the event the City vacates any portion of the Franchise Area during the term of this Franchise, the City shall, in its vacation procedure, reserve and grant an easement to PSE for PSE's Facilities, unless it is determined by the City, in consultation with PSE, that retaining, reserving and/or granting such an easement is not necessary for construction, repair and maintenance of existing and/or future Facilities.

Section 16. Moving Buildings within the Franchise Area.

16.1 If any person or entity obtains permission from the City to use the Franchise Area for the moving or removal of any building or other object, the City shall, prior to granting such permission, require such person or entity to make any necessary arrangements with PSE for the temporary adjustment of PSE's wires to accommodate the moving or removal of said building or other object. Such necessary arrangements with PSE shall be made, to PSE's satisfaction, not less than thirty (30) days prior to the moving or removal of said building or other object. In such event, PSE shall at the expense of the person or entity desiring to move or remove such building or other object, adjust any of its wires which may obstruct the moving or removal of such building or other object, provided that:

(i) The moving or removal of such building or other object which necessitates the adjustment of wires shall be done at a reasonable time and in a reasonable manner so as not to unreasonably interfere with PSE's business;

(ii) Where more than one route is available for the moving or removal of such building or other object, such building or other object shall be moved or removed along the route approved by the City; and

(iii) The person or entity obtaining such permission from the City to move or remove such building or other object shall be required to indemnify and save PSE harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the moving or removal of such building or other object, to the extent such injury or damage is caused by the negligence of the person or entity moving or removing such building or other object or the negligence of the agents, servants or employees of the person or entity moving or removing such building or other object.

Section 17. Forfeiture, Revocation and Remedies

17.1 If PSE violates or fails to comply with any of the provisions of this Franchise, or through willful misconduct or gross negligence fails to heed or comply with any notice given PSE by the City under the provisions of this Franchise, then PSE shall, at the election of the Lakewood City Council, forfeit all rights conferred hereunder and this Franchise may be revoked or annulled by the Council after a hearing held upon reasonable notice to PSE. The City may elect, in lieu of the above and without any prejudice thereto, seek to obtain an order from the superior court having jurisdiction compelling PSE to comply with the provisions of this Franchise. In such a proceeding, the prevailing party shall be entitled to recover its attorneys' fees and costs from the other party. Nothing herein is intended to limit the rights or remedies of either party, as such rights or remedies may exist under applicable law; nor shall the foregoing be construed to create any rights or remedies, except as otherwise specifically provided herein.

Section 18. Nonexclusive Franchise.

18.1 This Franchise is not, and shall not be deemed to be, an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area that do not interfere with PSE's rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof.

Section 19. Shared Facilities

19.1 The Franchise Area may include areas occupied by overhead transmission and distribution utility facilities that are owned and operated by a utility other than PSE. If such occupancy preexisted PSE's intent to construct Facilities in that portion of the Franchise Area, and if such preexisting occupancy is authorized by a franchise granted to such utility by the City that contains a common user clause (such clause being substantially in the form set forth below), then as to such portion of the Franchise Area, PSE's construction of any Facilities therein shall be subject to such common user clauses; provided, however, nothing herein shall require PSE to (1) construct, operate, maintain, or use any Facilities in a manner that is not consistent with prudent utility practices; or (2) occupy, use, or employ any one or more of the labor, materials, facilities, equipment, tools, goods, services, designs, or properties of a third party, unless such occupancy, use, or employment is arranged and accomplished on reasonable terms and conditions.

19.2 This Franchise is subject to the following "common user clause." If the City shall hereinafter grant a franchise to a utility (other than PSE), and such subsequent franchise authorizes such utility to construct overhead transmission and distribution utility facilities within a portion of the Franchise Area where PSE maintains Facilities pursuant to this Franchise, then in such event, PSE shall permit such other utility to jointly use and occupy PSE's Facilities within such portion of the Franchise Area; provided, however, nothing herein shall require PSE to (1) construct, operate, maintain, or use any Facilities in a manner that is not consistent with prudent utility practices; or (2) permit such joint use and occupancy unless the same can be arranged and accomplished on reasonable terms and conditions.

Section 20. Franchise Term.

20.1 This Franchise is and shall remain in full force and effect for a period of ten (10) years from and after the effective date of the Ordinance; provided, however, PSE shall have no rights under this Franchise nor shall PSE be bound by the terms and conditions of this Franchise unless PSE shall, within sixty (60) days after the effective date of the Ordinance, file with the City its written acceptance of the Ordinance. This Franchise shall automatically be extended for one or more additional ten (10) year periods at the expiration of the initial term of this Franchise or subsequent extension thereof, provided PSE is not in material breach of the terms and conditions of this Franchise. Either party may terminate this Franchise at the expiration of the initial term of this Franchise or any subsequent extension thereof by provision of notice submitted not more than one (1) year and not less than ninety (90) days prior to the expiration of the initial term of this Franchise or any subsequent extension thereof.

Section 21. Assignment.

21.1 PSE shall not have the right to assign its rights, benefits and privileges in and under this Franchise without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the City together with its written acceptance of all terms and conditions of this Franchise. Notwithstanding the foregoing, PSE shall have the right, without such notice or such written acceptance, to mortgage its rights, benefits and privileges in and under this Franchise for the benefit of bondholders.

Section 22. Miscellaneous.

22.1 If any term, provision, condition or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise which shall continue in full force and effect. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

22.2 This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 12 above) shall govern

and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by PSE of any and all rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

(i) references this Franchise; and

(ii) states that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this Franchise.

In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

Section 23. Alteration of Franchise.

23.1 The City and PSE hereby reserve the right to alter, amend or modify the terms and conditions of this Franchise in accordance with the provisions of this Section.

23.2 At any time during the term of this Franchise, the City or PSE may request, by written notice, that the other promptly participate in negotiations to alter, amend or modify the terms and conditions of this Franchise.

23.3 Within a reasonable time after receipt of the notice required by Section 23.2, the City and PSE shall, at a mutually agreed-upon time and place, commence negotiations to alter, amend or modify the terms and conditions of this Franchise. The City and PSE shall conduct such negotiations in good faith and with due regard to all pertinent facts and circumstances; provided, however, that neither the City nor PSE shall be obligated to agree to any proposed alteration, amendment or modification. Further, no rights or privileges granted by this Franchise shall be prejudiced, impaired or otherwise affected by the failure of the City or PSE to agree to any proposed alteration, amendment or modification.

23.4 Neither the City nor PSE shall be obligated to continue negotiations after the expiration of ninety (90) days from the date they commence such negotiations; provided, however, the City and PSE may agree to continue such negotiations for an additional period of time.

23.5 Any alteration, amendment or modification to which the City and PSE agree shall be submitted to the legislative authority of the City as a proposed ordinance. The ordinance so proposed shall expressly provide that, unless PSE properly files a written notice of acceptance within sixty (60) days of its effective date, the ordinance shall not be effective and this Franchise shall not be altered, amended or modified. To the extent permitted by law, the party proposing the alteration, amendment or modification shall bear all actual administrative costs directly related to approval thereof.

Section 24. Effective Date.

24.1 This Ordinance shall be effective on Jan. 23, 2006, having first been submitted to the City Attorney, having been published as required by law; having been passed at a regular meeting of the legislative body of the City by a majority of the whole of such legislative body, and having been approved by the Mayor of the City.

ADOPTED by the City Council this 17th day of January 2006

CITY OF LAKEWOOD

Claudia B. Thomas
Claudia B. Thomas, Mayor

ATTEST:

Alice M. Bush
Alice M. Bush, MMC, City Clerk

APPROVED AS TO FORM:

Heidi Ann Wachter
Heidi Ann Wachter, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I, ALICE M. BUSH, the duly appointed, qualified City Clerk of the City of Lakewood, an optional Code City, situated in the County of Pierce, State of Washington, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 403, an ordinance of the City of Lakewood, entitled:

ORDINANCE NO. 403

AN ORDINANCE granting Puget Sound Energy, Inc., a Washington corporation, its successors and assigns, the right, privilege, authority and franchise to set, erect, construct, support, attach, connect and stretch Facilities between, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along, across and through the Franchise Area for purposes of transmission, distribution and sale of energy for power, heat, light and any other purpose for which energy can be used; and to charge and collect tolls, rates and compensation for such energy and such uses.

I further certify that said Ordinance No. 403 was introduced on the 17th day of January, 2006, was submitted to the City Attorney on the 17th day of January, 2006; was published as provided by law at least once in a newspaper of general circulation in the City of Lakewood; was approved by a majority of the entire legislative body of the City of Lakewood at a regular meeting on the 17th day of January, 2006; and was approved by the Mayor of the City of Lakewood on the 17th day of January, 2006.

WITNESS my hand and official seal of the City of Lakewood, this 18th day of January, 2006.

Alice M. Bush
ALICE M. BUSH, City Clerk
City of Lakewood, State of Washington

HONORABLE MAYOR AND CITY COUNCIL
CITY OF LAKEWOOD, WASHINGTON

In the matter of the application of Puget :
Sound Energy, Inc., a Washington : Franchise Ordinance No. 403
corporation, for a franchise to construct, :
operate and maintain facilities in, upon, :
over under, along, across and through the : ACCEPTANCE
franchise area of the City of Lakewood, :
Washington :

WHEREAS, the City Council of the City of Lakewood, Washington, has granted a franchise to Puget Sound Energy, Inc., a Washington corporation, its successors and assigns, by enacting Ordinance No. 403, bearing the date of JANUARY 17, 2006; and

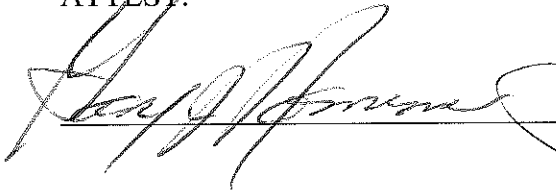
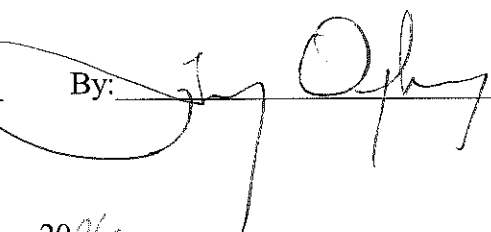
WHEREAS, a copy of said Ordinance granting said franchise was received by the Puget Sound Energy, Inc. on JANUARY 20, 2006 from said City of Lakewood, Pierce County, Washington.

NOW, THEREFORE, Puget Sound Energy, Inc., a Washington corporation, for itself, its successors and assigns, hereby accepts said Ordinance and all the terms and conditions thereof, and files this, its written acceptance, with the City of Lakewood, Pierce County, Washington.

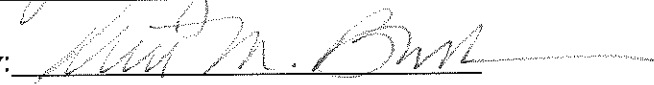
IN TESTIMONY WHEREOF said Puget Sound Energy, Inc. has caused this written Acceptance to be executed in its name by its undersigned Terry J. Oxley thereunto duly authorized on this 23rd day of January, 2006

ATTEST:

PUGET SOUND ENERGY, INC.

 By: 

Copy received for City of Lakewood on January 24, 2006

By: 
City Clerk