CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 01-14

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, GRANTING PUGET SOUND ENERGY, INC., A WASHINGTON CORPORATION, A NONEXCLUSIVE 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 RIGHT-OF-WAY 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; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, RCW 35A.11.020 grants the City broad authority to regulate the use of the public right-of-way; and

WHEREAS, RCW 35A.47.040 authorizes the City "to grant nonexclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for ... poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy,...for gas…"; and

WHEREAS, the Council finds that it is in the best interests of the health, safety and welfare of residents of the Buckley community to grant a non-exclusive franchise to Puget Sound Energy for the operation of electric distribution, electric transmission, natural gas distribution and natural gas transmission systems within the City right-of-way;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

1. **Definitions.** The following terms contained herein, unless otherwise indicated, shall be defined as follows:

1.1. City: The City of Buckley, a municipal corporation of the State of Washington, and its successors and assigns, specifically including all areas incorporated therein as of the Effective Date and any other areas later added thereto by annexation or other means.

1.2. Days: Calendar days.

1.3. Effective Date: The date defined in Section 20 below.

1.4. Facilities: 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 cross-arms), 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 in an incidental and/or accessory manner, whether the same be located over or under ground, utilized by PSE in the operation of activities authorized by this Franchise. The abandonment by PSE of any Facilities as defined herein shall not act to remove the same from this definition.

1.5. Franchise: This ordinance, Ordinance Number 01-14, which sets forth the terms and conditions of this franchise.

1.6. PSE: Puget Sound Energy, Inc., a Washington corporation, and its successors and assigns.

1.7. Person: Means persons of either sex, firms, copartnerships, corporations, private utilities and other associations of natural persons whether acting by themselves or by servants, agents or employees.

1.8. Public Improvement Project: A City-funded capital improvement to the Right-of-way that is undertaken by or on behalf of the City.

1.9. Right-of-way: All public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, trails, sidewalks, bikeways, parking, and horse trails, whether improved or unimproved, including the air rights, sub-surface rights and easements related thereto now or hereafter held or administered by the City of Buckley.

2. **Franchise Granted.**

2.1. Pursuant to RCW 35A.47.040, the City hereby grants to PSE, subject to the terms and conditions hereinafter set forth, a nonexclusive franchise beginning on the Effective Date. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Right-of-way that do not interfere with PSE's rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Right-of-way or affect the jurisdiction of the City over the same.

2.2. This Franchise grants PSE the right, privilege, authority and franchise, subject to the terms and conditions herein, to set, lay, install, construct, operate, maintain, repair, replace, enlarge and use Facilities in, under, on, across, over, through, along or below the Right-of-way for the transmission, distribution and sale of electrical energy and natural gas for power, heat and light, and any other purposes for which electrical energy and natural gas may be used.

2.3. This Franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any Right-of-way that do not interfere with PSE's rights under this Franchise. Such Franchise shall in no way prevent or prohibit the City from using any Right-of-way or other City property or affect its jurisdiction over them or any part of them, and the City shall retain the authority to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of the same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of new Right-of-way or other public properties of every type and description.

2.4. This Franchise shall not convey any right to PSE to install its Facilities on, under, over or across, or to otherwise use, any City-owned or leased properties of any kind that are located outside the Right-of-way. Further, this Franchise shall not govern or apply to Facilities located on PSE owned or leased properties or easements (whether inside or outside of the Right-of-way, whether granted by a private or public entity, and whether now existing or hereafter acquired) and such Facilities are not, and will not be deemed to be, located pursuant to rights derived from this Franchise or pursuant to rights otherwise granted by the City.

3. **Franchise Term.** The term of the Franchise granted hereunder shall begin on the Effective Date and continue for the period of fifteen (15) years after the Effective Date; 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, file with the City its written acceptance of the Ordinance. At the end of the initial fifteen (15) year term, the term of this Franchise shall automatically renew for an additional term of ten (10) years unless either party gives the other party notice of non-renewal at least ninety (90) days (but no more than one hundred eighty (180) days) prior to the end of the initial fifteen (15) year term.

4. City Ordinances and Regulations, Utility Taxes.

4.1. Compliance with Laws and Standards: In carrying out any authorized activities under the privileges granted herein, PSE shall meet accepted industry standards and, subject to Section 4.2 and 4.3 below, comply with all applicable laws of any governmental entity with jurisdiction. This shall include, subject to Section 4.2 and 4.3 below, all applicable laws, rules and regulations existing at the Effective Date of this Franchise or that may be subsequently enacted by any governmental entity with jurisdiction over PSE, including any regulations adopted by the City.

4.2. Conflicts: In the event of any conflict or inconsistency between any local laws or regulations and the terms of this Franchise, the terms and conditions of this Franchise will govern and control. Further, in the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any permit, approval, license 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 of its rights, benefits, privileges, obligations or duties in and under this Franchise, the provisions of this Franchise shall govern and control.

4.3. Reservation of Rights: This Franchise shall not limit the City, and the City hereby reserves all lawful powers and franchise authority available to it under its general police authority; provided, however, such authority shall be exercised in a manner consistent with and so as not to impair the rights, privileges, authority and franchise conferred to PSE by this Franchise.

4.4. Utility Taxes: Nothing herein shall be deemed to exempt or excuse PSE from payment to the City of any tax lawfully imposed upon PSE by City ordinances as such ordinances currently exist or may hereafter be lawfully amended or superseded; provided that nothing herein shall be construed in any manner as a waiver by PSE of any right PSE may have to contest the validity of any such tax or the amount of any such tax due from PSE pursuant to such City ordinances.

5. Right-of-way Management.

5.1. Noninterference of Facilities: PSE's Facilities in the Right-of-way will be maintained, and PSE's activities under this Franchise will be undertaken in such

a manner, so as not to unreasonably interfere with the free passage of vehicle traffic therein, or with the reasonable ingress and egress to the properties abutting the Right-of-way as they exist at the time of installation of the Facilities.

5.2. Excavation, Emergency.

5.2.1. 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.

5.2.2. Whenever PSE excavates in the Right-of-way for the purpose 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 the ordinances and regulations of the City requiring permits to operate in the Right-of-way. In no case shall any such work commence within any Right-of-way without a permit, except as otherwise provided in this Franchise.

5.2.3. In the event of any emergency affecting PSE's Facilities within the Right-of-way, PSE may immediately take any necessary emergency measures to repair or remove its Facilities or otherwise make its Facilities safe without first applying for and obtaining a permit as required by this Franchise. 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. PSE shall immediately notify the Buckley City Administrator of any emergency work and shall comply with all City Administrator directives regarding traffic flow and safety.

5.3. Restoration of Right-of-way.

5.3.1. PSE shall, after any installation, construction, relocation, maintenance, or repair of Facilities within the Right-of-way, promptly restore the surface of the Right-of-way as nearly as reasonably practicable to at least the same condition it was in immediately prior to any such installation, construction, relocation, maintenance or repair in accordance with City standards at its sole cost and expense. All concrete encased monuments, which have been disturbed or displaced by such work, shall be restored pursuant to all federal, state and local standards and specifications.

5.3.2. If PSE fails to restore the surface of the Right-of-way in accordance with this Section 5.3, the City shall provide PSE with written notice including a description of actions the City believes necessary to restore the Right-of-way. If the surface of the Right-of-way is not restored in accordance with this Section 5.3 within thirty (30) days after PSE's receipt of the City's notice, the City, or its authorized agent, may restore the surface of the Right-of-way, and PSE shall be responsible for all reasonable, out-of-pocket costs incurred by the City in restoring the surface of the Right-of-way in accordance with this Section.

5.3.3 In lieu of restoration bond requirements of any applicable City regulations, PSE shall, upon request of the City, furnish a single on-going bond executed by PSE and a corporate surety authorized to do surety business in the State of Washington, in an amount to be established by the Mayor, or his or her designee, but not to exceed $25,000, to ensure performance of PSE's obligations under this Franchise relating to the restoration of streets and other affected property of the City within the Right-of-way as a result of work performed within the Right of Way by PSE. If the estimated value of restoration work exceeds $25,000 for all PSE projects within the Right of Way within any given time, the City may require the bond amount to be increased to the value of the total restoration work. When requested by PSE, the City shall subsequently authorize the bond amount to be reduced as the total amount of restoration work reduces, provided the bond otherwise meets the specifications of this paragraph. The bond shall be conditioned so that PSE shall faithfully perform all such restoration obligations, and correct any defective work or materials discovered in the work performed by the PSE to restore the streets or other affected property of the City within the Right-of-way, as required by this Franchise, for a period of two years from the City's acceptance of the restoration work.

5.4. Relocation of Facilities.

5.4.1 Whenever the City causes a Public Improvement Project to be undertaken within the Right of Way, and such Public Improvement Project requires the relocation of PSE's then existing Facilities within the Right of Way (for purposes other than those described in Section 5.4.2 below), the City shall:

5.4.1.1 provide PSE, within a reasonable time prior to the commencement of such Public Improvement Project, written notice requesting such relocation; and

5.4.1.2 provide PSE with reasonable plans and specifications for such Public Improvement Project.

After receipt of such notice and such plans and specifications, PSE shall relocate such Facilities within the Right of Way at no charge to the City. If the City requires the subsequent relocation of any Facilities within five (5) years from the date of relocation of such Facilities pursuant to this Section 5.4.1, the City shall bear the entire cost of such subsequent relocation except to the extent such relocation is necessitated by any event or condition beyond the reasonable control of the City.

5.4.2 Whenever (a) any public or private development within the Right of Way, other than a Public Improvement Project, requires the relocation of PSE's Facilities within the Right of Way to accommodate such development; or (b) the City requires the relocation of PSE's Facilities within the Right of Way for the benefit of any person or entity other than the City, then in such event, PSE shall have the right as a condition of such relocation, to require such developer, person or entity to make payment to PSE, at a time and upon terms acceptable to PSE, for any and all costs and expenses incurred by the PSE in the relocation of PSE's Facilities.

5.4.3 Any condition or requirement imposed by the City upon any person or entity, other than PSE, that requires the relocation of PSE's Facilities shall be a required relocation for purposes of Section 5.4.2 above (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development).

5.4.4 PSE may, after receipt of written notice from the City requesting a relocation of its Facilities within the Right of Way pursuant to Section 5.4.1, submit to the City written alternatives to the relocation. The City shall evaluate the alternatives and advise PSE in writing if one or more of the alternatives are, in the reasonable judgment of the City, suitable to accommodate the work that would otherwise necessitate relocation of the Facilities. If requested by the City, PSE shall submit additional information to assist the City in making the evaluation. The City shall give each alternative proposed by PSE full and fair consideration. No reasonable alternative proposed by PSE shall be evaluated by the City in an arbitrary or capricious manner. In the event the City ultimately determines, in its reasonable judgment, that there is

no other reasonable alternative, PSE shall relocate its Facilities as otherwise specified in this Section 5.4.

5.4.5 Nothing in this Section 5.4 shall require PSE to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or other rights not derived from this Franchise, regardless of whether such easement or other rights are on public or private property and regardless of whether this Franchise co-exists with such easement or other rights.

5.5. Vacation of Right-of-way: If the City considers vacating any portion of the Right-of-way in or on which any PSE Facilities are located, the City shall give PSE advance written notice of the same to allow PSE the opportunity to review and comment on the proposed vacation. Thereafter, unless otherwise requested by PSE, the City shall reserve and grant an easement to PSE in its vacation ordinance adequate for the operation, repair, maintenance and replacement of the Facilities based on the input received from PSE; provided that the City shall not be required to reserve an easement if the vacation is done as part of a Public Improvement Project and the Facilities are to be relocated under Section 5.4.1. Further, the City shall not be required to reserve an easement if the planned vacation is conditioned upon a vacation petitioner's payment to PSE of the cost of relocating the existing Facilities to another area of the Right-of-way or to private easement, including necessary service reconnections caused by the relocation.

5.6. Maps and Records: PSE will provide the City, upon reasonable request and without charge, copies of available drawings in use by PSE showing the approximate location of its Facilities at specified locations within the Right-of-way; provided the request is limited to Facilities at specific locations in the Right-of-way and is made in connection with the City's planning of a Public Improvement Project. PSE does not warrant the accuracy of any map, drawing or other information provided under this Section 5.6, and to the extent the location of Facilities are shown, such locations are approximate.

5.7. Utility Location: 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.

5.8. Underground Installation: PSE provides electric and natural gas service on a nonpreferential basis subject to and in accordance with tariffs on file with the Washington Utilities and Transportation Commission. Subject to and in accordance with such tariffs, PSE will cooperate with the City in the formulation

of policy and regulations concerning underground installation of PSE's Facilities within the Right-of-way. If, during the term of this Franchise, the City shall direct PSE to install underground electrical Facilities within the Right-of-way, such installation shall be arranged and accomplished subject to and in accordance with such tariffs.

6. Planning Coordination.

6.1. Public Improvement Projects: PSE will assign a representative whose responsibility shall be to coordinate with the City on planning for Public Improvement Projects.

6.2. Emergency Operations: Upon the request of either party, and by mutual agreement, the City and PSE agree to reasonably cooperate in the planning and implementation of emergency operations response procedures as they relate to PSE Facilities.

7. City Use of Facilities.

7.1. During the term of this Franchise and with respect to poles which are Facilities located within the Right-of-way and which are wholly owned by PSE, 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 municipal signal interconnection and communication capabilities or other noncommercial public purpose. The foregoing rights of the City to install and maintain such wires are further subject to the following:

7.1.1. Such installation and maintenance shall be done by the City at its sole risk and expense in accordance with all applicable laws, and subject to such reasonable terms and conditions 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

7.1.2. PSE shall have no obligation under Section 8 (or arising under the purview of Section 8) in connection with any City-owned wires so installed or maintained.

7.1.3. The City shall indemnify, defend and hold harmless Puget in connection with the City's use of Puget's Facilities.

7.1.4. PSE will not charge the City a fee for the use of such poles in accordance with this Section 7 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.

8. Indemnification.

8.1 PSE shall indemnify, defend and hold harmless the City, its agents, officers or employees from and against any and all third party claims and demands, and any resulting liability, loss, cost, damage or expense of any nature whatsoever including all reasonable costs and attorneys' fees, made against the City, its agents, officers or employees on account of injury, harm, death or damage to persons or property to the extent such injury, harm, death or damage is caused by the willfully tortious or negligent acts or negligent omissions of PSE or its agents, servants, employees, contractors, or subcontractors in the exercise of the rights granted to PSE by this Franchise from and after the Effective Date. Provided, however, such indemnification shall not extend to any claims or demands, or any resulting liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorneys' fees to the extent caused by the willfully tortious or negligent acts or negligent omissions of the City, its agents, employees, officers, contractors or subcontractors.

8.2 Solely to the extent required to enforce the indemnification provided in Section 8.1, PSE's indemnification obligations pursuant to Section 8.1 shall include assuming potential liability for actions brought by PSE's own employees and the employees of PSE's agents, representatives, contractors, and subcontractors even though PSE might be immune under Title 51 RCW from direct suit brought by such employees. It is expressly agreed and understood that this assumption of potential liability for actions brought by the aforementioned employees is limited solely to claims against the City for which indemnification is provided under Section 8.1 and which arise by virtue of PSE's exercise of the rights set forth in this Franchise from and after the Effective Date. The obligations of PSE under this section have been mutually negotiated by the parties hereto, and PSE acknowledges that the City would not enter into this Franchise without PSE's waiver thereof. Solely to the extent required to enforce the indemnification provided in Section 8.1 and such indemnification only, PSE waives its immunity under Title 51 RCW as provided in RCW 4.24.115; provided, however, the foregoing waiver shall not in any way preclude PSE from raising such immunity as a defense against any claim brought against PSE by any of its employees.

8.3 In the event any matter (for which the City intends to assert its rights under this Section 8) is 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 costs and expense, to settle and compromise such matter as it pertains to PSE's responsibility to indemnify, defend and hold harmless the City, its agents, officers or employees. In the event any suit or action is started against the City based upon any such matter, the City shall likewise 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 suit or action, or defend the same at its sole cost and expense, by attorneys of its own election, as it pertains to PSE's responsibility to indemnify, defend and hold harmless the City, its agents, officers or employees.

9. Insurance.

9.1 During the term of this Franchise, PSE shall provide and maintain, at its own cost, general liability insurance in the minimum amount of $2,000,000 for each occurrence, in a form and with a carrier reasonably acceptable to the City, to cover any and all insurable liability, damage, claims and loss as set forth in Section 8.1 above, and, to the extent such coverage is reasonably available in the commercial marketplace, all liability, damage, claims and loss as set forth in Section 8.2 above, except for liability for fines and penalties for violation of environmental laws as otherwise provided below. Insurance coverage shall include, but is not limited to, all reasonable defense costs. Such insurance may include, but is not limited to, pollution liability coverage, at a minimum covering liability from sudden and accidental occurrences, subject to time element reporting requirements, and such other applicable pollution coverage as is reasonably available in the commercial marketplace.

9.2 In lieu of the insurance requirements set forth in Section 9.1, above, PSE may self-insure against such risks in such amounts as are consistent with the coverage requirements set forth in Section 9.1. Upon the City's request, PSE shall provide the City with reasonable written evidence that PSE is maintaining such self-insurance.

9.3 The indemnity, insurance and bond provisions contained in this Franchise shall survive the termination of this Franchise and shall continue for as long as PSE Facilities shall remain in or on the Right-of-way or until the parties execute a new franchise agreement which replaces the indemnity, insurance and bond provisions set forth in this Franchise.

10. **Default.** If PSE shall fail to comply with the provisions of this Franchise, the City may serve upon PSE a written order to so comply within sixty (60) days from the date such order is received by PSE. If PSE is not in compliance with this Franchise after expiration of said sixty (60) day period, the City may, by ordinance, declare an immediate forfeiture of this Franchise; provided, however, if any failure to comply with this Franchise by PSE cannot be corrected with due diligence within said sixty (60) day period (PSE's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which PSE may so comply shall be extended for such time as may be reasonably necessary and so long as PSE commences promptly and diligently to effect such compliance.

11. **Force Majeure.** Neither party will be in breach of this Franchise or otherwise be subject to penalty for any non-compliance with this Franchise or delay in compliance of any of its obligations hereunder where such compliance is prevented or delayed by acts of God, fire, explosion, accident, flood, epidemic, war, riot, rebellion, interruption or rationing of fuel supply, or other event outside of its reasonable control ("Force Majeure Event").

12. **Survival.** All of the provisions, conditions and requirements of this Franchise that may be reasonably construed to survive the termination or expiration of this Franchise shall survive such termination or expiration. All of the provisions, conditions, regulations and requirements contained in this Franchise shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of the parties hereto and all privileges, as well as all obligations and liabilities of each party shall inure to their respective heirs, successors and assigns.

13. **Severability.** If any Section, sentence, clause or phrase of this Franchise should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other Section, sentence, clause or phrase of this Franchise. The parties may amend, repeal, add, replace, or modify any provision of this Franchise to preserve the intent of the parties as expressed herein prior to any finding of invalidity or unconstitutionality.

14. **Assignment.** PSE shall not assign this Franchise to any unaffiliated third party without the prior consent of the City, which consent shall not be unreasonably withheld or delayed. 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.

15. **Notice.** Any notice or information required or permitted to be given to the parties under this Franchise may be sent to the following addresses unless otherwise specified:

Puget Sound Energy	City Administrator
P.O. Box 90868	City of Buckley
Bellevue, WA 98009-0868	PO Box 1960
Attn: Community Services	Buckley, WA 98321

16. **Non-Waiver.** The failure of either party to enforce any breach or violation by the other party of any provision of this Franchise shall not be deemed to be a waiver or a continuing waiver by the non-breaching party of any subsequent breach or violation of the same or any other provision of this Franchise.

17. **Entire Agreement.** This Franchise constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other prior agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.

18. **Amendment.** 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.

19. **Supremacy.** This Franchise is the dominant agreement between the parties. In the event of any conflict between this Franchise and any City ordinance or permit, the provisions of this Franchise shall control. This Franchise, however, is subject to the provisions of any applicable tariff on file with the Washington Utilities and Transportation Commission or its successor. In the event of any conflict or inconsistency between the provisions of this Franchise and such tariff, the provisions of such tariff shall control.

20. **Effective Date.** This ordinance shall not go into effect until (1) it is published as required by law; and (2) PSE assumes ownership of the City's gas utility upon closing of its Asset Purchase Agreement with the City. Upon the effective date of this ordinance, the current franchise agreement with PSE executed on November 14, 1989 shall be deemed terminated.

Introduced, passed, and approved this 8th day of April, 2014

Pat Johnson

Mayor Pat Johnson

Attest:

Joanne Starr, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney