

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1972

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, EXTENDING AND AMENDING ORDINANCE NO. 1166 REGARDING THE GRANT OF A FRANCHISE TO PUGET SOUND ENERGY, INC., TO OCCUPY THE CITY RIGHT OF WAY FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF NATURAL GAS TRANSMISSION AND DISTRIBUTION FACILITIES.

WHEREAS, on February 28, 1994, the City Council adopted Ordinance No. 1166 granting a franchise to Washington Natural Gas Company to lay, construct, maintain, repair, and replace natural gas pipes, mains, appurtenances, and accessories within the City right of way for the transmission, sale, and distribution of natural gas, with a termination date of January 1, 2018; and

WHEREAS, Puget Sound Energy, Inc. ("PSE"), is the successor in interest to the rights of Washington Natural Gas Company under the franchise, and on January 11, 2017, the City received a request from PSE to extend the term of the franchise until August 30, 2026; and

WHEREAS, before agreeing to an extension as long as requested by PSE, the City needs sufficient time to (1) conduct good faith negotiations with PSE as required by the existing franchise; and (2) provide notice to and obtain input from the public and other stakeholders; and

WHEREAS, in order to allow sufficient time and avoid the possibility of the franchise expiring before a final franchise ordinance is ready for adoption, the City is willing to extend the existing franchise an additional six months with the addition of certain provisions mutually agreed upon by the parties; and

WHEREAS, the City Council has the authority under RCW 35A.47.040 to grant franchises for the use of its right of way; and

WHEREAS, the City Council finds that it is in the public interest to extend the term of the franchise for six months with the additional provisions set forth herein; now therefore

THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Section 2 of Ordinance No. 1166 is hereby amended to read as follows:

Section 2. Franchise Term. The term of this franchise shall be from March

14, 1994 until July 1, 2018, at which time this franchise shall terminate. Provided, however, the parties shall negotiate in good faith to extend the franchise upon such terms as are in the best interests of the parties hereto.

Section 2. A new Section 10A is hereby added to Ordinance No. 1166 to read as follows:

Section 10A. Compliance with Laws. Grantee shall comply with all applicable laws and regulations in the exercise of its rights and the performance of its obligations under this Franchise; provided that, in the event of any conflict or inconsistency between any local laws or regulations of the City and the terms of this Franchise, the terms of this Franchise shall govern and control.

Section 3. A new Section 11A is hereby added to Ordinance No. 1166 to read as follows:

Section 11A. Insurance Requirements

11A.1 Grantee shall procure and maintain for the duration of this Franchise, insurance and/or self-insurance against 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 under this Franchise to Grantee, its agents, representatives or employees. Such insurance shall include:

- (a) Automobile Liability insurance with limits no less than \$1,000,000 Combined Single Limit per occurrence for bodily injury and property damage; and
- (a) Commercial General Liability insurance, with limits no less than \$2,000,000 per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products and completed operations; property damage; explosion, collapse and underground (XCU); and employer's liability.

11A.2 Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

11A.3 In lieu of the insurance requirements set forth in this Section 11A, Grantee may self-insure against such risks in such amounts as are consistent with prudent utility practice and the coverage amounts specified above. Upon the City's

request, Grantee shall provide the City with reasonable written evidence that Grantee is maintaining such self-insurance.

Section 4. Administrative Costs. As provided in RCW 35.21.860, the City may recover from PSE the actual administrative costs and expenses incurred by the City, including attorneys' fees, that are directly related to receiving and approving this franchise amendment. However, the City may not impose a franchise fee or any other fee or charge of whatever nature or description upon PSE, except as authorized in RCW 35.21.860.

Section 5. The provisions of Ordinance No. 1166, as amended herein, remain in full force and effect.

Section 6. Ordinance Effective Date. This Ordinance shall be in full force and effect no sooner than five (5) days after publication as required by law; and after acceptance of the ordinance by Franchisee. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Section 7. Severability. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

Introduced the 28 day of November, 2017.


Passed by the City Council on the 12 day of December, 2017.


Lynn Kim, City Manager

ATTEST:


Angela Woods, City Clerk

APPROVED AS TO FORM:


Gregory F. Amann, Assistant City Attorney

Published: 12/14/2017
Effective Date: Dec. 19, 2017

ACCEPTANCE OF FRANCHISE AMENDMENT

Puget Sound Energy, Inc., accepts the terms and conditions of this Ordinance and approves and accepts the amendment to the Franchise as set forth herein.

Dated this _____ day of _____, 2017

Puget Sound Energy, Inc.

By: _____

Its: _____

STATE OF _____)

County of _____)

ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath, stated that he was authorized to execute the instrument and acknowledged it as the _____ of Puget Sound Energy, Inc., be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____.

NOTARY PUBLIC
Print Name: _____
My appointment expires: _____