

When Recorded Return To:

Puget Sound Energy, Inc.
Corporate Facilities, PSE 10S
PO Box 97034
Bellevue, WA. 98009-9734



200509290054
Skagit County Auditor

9/29/2005 Page 1 of 7 10:02AM



AGREEMENT AND EASEMENT FOR A PRESSURE REDUCING VALVE STATION AND SCADA ANTENNA WITH POLE

REFERENCE #: March Point Thompson Road
GRANTOR: Puget Sound Energy, Inc.
GRANTEE: Skagit County PUD #1
LEGAL DESCRIPTION: Portion of Sec 4, Twns 34, R 2, Skagit County, Washington
ASSESSOR'S PROPERTY TAX PARCEL: P19834

THIS AGREEMENT made this 21 day of SEPTEMBER 2005, between PUGET SOUND ENERGY, INC., a Washington corporation ("PSE" herein), and SKAGIT COUNTY PUD #1 ("Grantee" herein);

WHEREAS, PSE is the owner of a parcel of land known as March Point Switch, described as follows: A Portion of vacated Blocks 13 through 24, of The Railroad Addition to Anacortes, as per plat recorded in Volume 2, of Plats, page 36, records of Skagit County, Washington, and

WHEREAS, such portion of land is presently owned and occupied by PSE in connection with PSE'S utility operations, (said property being hereafter referred to as "PSE'S Property"); and

WHEREAS, Grantee desires an easement for a Pressure Reducing Value Station together with a 22 foot wooden pole and SCADA antenna across PSE'S property at a location shown in Exhibit "A" attached and more specifically described herein below know as the "Easement Area";

The East 15 feet of the South 35 feet of Block 24, of the Railroad Addition to Anacortes, as per plat recorded in Volume 2 of Plats, Page 36, Records of Skagit County, Washington. At the Southeast corner of the easement area lies a concrete monument with brass disc, as denoted in and set for that survey recorded in Volume 9 of Surveys, Page 125, Records of Skagit County, Washington. The East line of said easement also being the West line of County Road right of way known as Thompson Road (formerly called First Avenue in the Railroad Addition).

NOW THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid receipt of which is hereby acknowledged, and in consideration of the performance by Grantee of the covenants, terms and conditions hereinafter set forth, PSE hereby conveys and quitclaims to Grantee the following easement:

A. A nonexclusive perpetual easement over, across, along, in, upon and under that portion of PSE'S Property described as the "Easement Area" and by this reference made a part hereof for the purposes of installing, constructing, operating, maintaining, removing, repairing, replacing and using a Pressure Reducing Valve Station and appurtenances thereto (herein the "Improvements"), together with the nonexclusive right of ingress to and egress from said portion of PSE'S Property for the foregoing purposes.

The terms "Easement" and "Easement Area" in this instrument refer to the easement herein granted on PSE'S Property and as described above.

This Easement is granted subject to and conditioned upon the following terms, conditions and covenants which Grantee hereby promises to faithfully and fully observe and perform.

1. **Cost of Construction and Maintenance.** Grantee shall bear and promptly pay all costs and expenses of construction and maintenance of the Improvements.

2. **Compliance with Laws and Rules.** The Grantee shall construct, maintain and use the Improvements in accordance with the requirements of PSE, the National Electric Safety Code and any statute, order, rule or regulation of any public authority having jurisdiction.

3. **Use of PSE'S Property by PSE.** Grantee's rights herein shall at all times be subordinate to such rights of PSE as are necessary to preserve and maintain the capabilities of PSE'S Property to be used for utility purposes, and nothing herein contained shall prevent or preclude PSE from undertaking construction, installation and use of any utility facilities within PSE'S Property. PSE shall not be liable to Grantee or to Grantee's employees, agents, or to any other party benefiting from said Improvements, for loss or injury resulting from any damage or destruction of the Improvements directly or indirectly caused by PSE'S existing or future use of PSE'S Property.

4. **Required Prior Notice and Approval of Plans and Specifications.** Prior to any installation, alteration, replacement or removal of the Improvements or any other major activity by Grantee on PSE'S Property, Grantee shall give PSE written notice thereof together with preliminary plans and specifications for the same at least six (6) months prior to the scheduled commencement of such activity. PSE shall have the right to require that such plans and specifications be modified, revised or otherwise changed to the extent that the final plans and specifications therefor shall include provisions for the protection of PSE'S facilities, the prevention of hazardous conditions and minimum interruption to PSE'S utility operations. No such activity shall be commenced without PSE'S prior written approval of the plans and specifications therefor and all changes or amendments thereto, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, in the event of any emergency requiring immediate action by Grantee for protection of the Improvements, persons or property, Grantee may take such action upon such notice to PSE as is reasonable under the circumstances.

Nothing herein shall be deemed to impose any duty or obligation on PSE to determine the adequacy or sufficiency of the Grantee's plans and specifications, or to ascertain whether Grantee's construction is in conformance with the plans and specifications approved by PSE.

5. **As-Built Survey.** Upon PSE'S request, Grantee shall promptly provide PSE with as-built drawings and survey showing the location and elevations of the Improvements on PSE'S Property.

6. **Grantee's Use and Activities.** Grantee shall exercise its rights under this Agreement so as to minimize and avoid, insofar as possible, interference with the use by PSE of PSE'S Property for utility purposes and shall at all times conduct its activities on the Easement Area so as not to interfere with, obstruct or endanger PSE'S operations or facilities. Grantee shall install the Improvements and conduct any other of its substantial activities on PSE'S Property as may be communicated to Grantee by PSE for the purpose of protecting PSE'S facilities, preventing hazardous conditions and minimizing interruptions to PSE'S utility operations.

7. **Coordination of Activities.** Grantee shall give at least 10 days advance written notice of the proposed dates of its construction, repair and maintenance activities on PSE'S Property to PSE'S North Division office (presently headquartered at Burlington Washington), or such other division office of PSE as PSE may from time to time designate. Grantee shall cooperate in the revision of such dates and/or the coordination of its activities with those of PSE'S if deemed necessary by PSE to minimize conflicts, insure protection to each parties facilities, prevent hazardous conditions, or minimize interruption of PSE'S operations. Provided, however, that in the event of an emergency requiring immediate action by Grantee for the protection of its Improvements or other persons or property, Grantee may take such action upon such notice to PSE as is reasonable under the circumstances.

8. **Work Standards.** All work to be performed by Grantee on PSE'S Property shall be designed and constructed so as to withstand the consequences of any short circuit of any of PSE'S electric facilities now or hereafter installed on PSE'S Property. All work to be performed by Grantee on PSE'S Property shall also be in accordance with the plans and specifications submitted to and approved by PSE and shall be completed in a careful and workmanlike manner to PSE'S satisfaction, free of claims or liens; however, nothing herein shall be deemed



to impose a duty or obligation on PSE with respect to the sufficiency thereof. Without limitation to the foregoing, Grantee shall exercise the utmost caution when conducting its activities in the vicinity of any of PSE'S energized utility lines in order to prevent any contact therewith. Upon completion of such work Grantee shall remove all debris and restore the ground surface as nearly as possible to the condition in which it was at the commencement of such work, and shall replace any property corner monuments which were disturbed or destroyed during construction. Grantee shall also pay to PSE all of PSE'S costs necessary to re-establish destroyed survey references and hubs established by PSE in conjunction with any survey for new facilities on PSE'S Property.

9. Changes and Repairs to PSE'S Facilities. Grantee shall promptly pay to PSE the cost of any relocation, alteration, restoration and other changes or repairs to PSE'S facilities which PSE shall reasonably deem necessary by reason of the construction, use and maintenance of the Improvements or other activities of Grantee on PSE'S Property. Without limitation to the foregoing, Grantee shall promptly pay to PSE the cost of temporary raising of wires and the realignment or strengthening of power poles or towers made necessary by Grantee's activities pursuant to this Agreement. If PSE so requests, Grantee shall provide assurance of payment satisfactory to PSE prior to PSE'S commencement of such work. PSE shall accomplish such changes or repairs, subject to the availability of labor and materials. For the purpose of this paragraph, "cost" shall be defined as all direct or assignable costs of materials, labor and services including overhead, in accordance with charges for transportation of men, material, and equipment, storage expense of material and rental of equipment.

10. Access. The Grantee shall design, construct, maintain and use its Improvements in such fashion as to permit reasonable and continuous access along PSE'S Property in all directions, and in such fashion as to accommodate and support vehicular travel over and across the Improvements, including travel by cranes and trucks with heavy loads. Grantee shall at all times keep PSE'S Property free and clear of all obstructions and equipment. If requested by PSE, the Grantee shall make provisions for continued access by PSE along PSE'S Property during construction of the Improvements.

11. Inspectors. PSE shall appoint one or several PSE representatives who shall serve as inspectors to oversee all work to be performed by Grantee on PSE'S Property. Grantee shall not carry on any work unless it has given such notice to PSE as may be reasonable in the circumstances so as to allow for the presence of such inspector or inspectors. Grantee and Grantee's contractors shall promptly and fully comply with all orders and directions of PSE'S inspectors, including without limitation, cessation of work, and Grantee's construction contracts shall so provide. Grantee shall promptly pay PSE'S charge for such inspectors.

12. Conflict with Future Installations of PSE. In the event that it should become necessary for PSE to install additional utility systems for purposes of transmission, distribution and sale of gas, electricity, communications and other network commodities or services or otherwise use PSE'S Property and if, in the sole judgment of PSE, the location, existence and use of the Improvements interferes with such installation or use to the extent that it is impracticable or substantially more expensive to accomplish such installation or use, or that such installation or use may pose a hazard because of the location, existence or use of the Improvements, Grantee shall have the obligation to either, in Grantee's sole discretion, (a) protect, modify or relocate the Improvements at the cost and expense of Grantee, so as to remove the interference or hazard to PSE'S satisfaction, or (b) to reimburse PSE for its added costs of design, construction and installation to avoid such interference or hazard. In the event PSE intends to undertake any such construction, PSE shall give Grantee reasonable advance written notice of such intention together with preliminary plans and specifications for such work, identifying the potential interference or hazard and all design information relating thereto. In no event shall such notice and plans be required to be given more than six months prior to the scheduled commencement of work.

Within one month after receiving such notice from PSE, Grantee shall give written notice to PSE by which notice Grantee will elect to (a) protect, modify or relocate the Improvements, or (b) reimburse PSE for its said added costs. If the Grantee elects to protect, modify or relocate the Improvements it shall commence work promptly and diligently prosecute such work to completion prior to the scheduled date of commencement of PSE'S construction. If Grantee elects to pay PSE'S added costs, Grantee shall give PSE satisfactory assurance of payment of such costs at the time such notice of election is given. If Grantee does not so elect one of the above-described options by giving PSE the required notice, PSE shall be entitled to make such an election on behalf of Grantee, Grantee agrees that this election shall be binding upon Grantee and have the same effect as if made by Grantee. If PSE so elects option (a) described herein or if Grantee elects option (a) and fails to commence and prosecute its work as



200509290054
Skagit County Auditor

contemplated herein, PSE may, at its option, undertake such work on behalf of Grantee as PSE deems necessary pursuant to option (a) and Grantee shall promptly pay PSE for all costs incurred by PSE in performing such work. PSE'S costs reimbursable under this paragraph are defined as in Paragraph 9 herein.

13. Termination for Breach. In the event Grantee breaches or fails to perform or observe any of the terms and conditions herein, and fails to cure such breach or default within ninety (90) days of PSE'S giving Grantee written notice thereof, or within such other period of time as may be reasonable in the circumstances, PSE may terminate Grantee's rights under this Agreement in addition to and not in limitation of any other remedy of PSE at law or in equity, and the failure of PSE to exercise such right at any time shall not waive PSE'S right to terminate for any future breach or default.

14. Termination for Cessation of Use. In the event Grantee ceases to use the Improvements for a period of five (5) successive years, this Agreement and all Grantee's rights hereunder shall automatically terminate and revert to PSE.

15. Release of Improvements on Termination. No termination of this Agreement shall release Grantee from any liability or obligation with respect to any matter occurring prior to such termination, nor shall such termination release Grantee from its obligation and liability to remove the Improvements from PSE'S Property and restore the ground.

16. Removal of Improvements on Termination. Upon any termination of this Agreement, Grantee shall promptly remove from the Easement Area its Improvements and restore the ground to the condition now existing or, in the alternative, take such other mutually agreeable measures to minimize the impact of the Improvements on PSE'S Property. Such work, removal and restoration shall be done at the sole cost and expense of Grantee and in a manner satisfactory to PSE. In case of failure of Grantee to so remove its Improvements, restore the ground or take such other mutually agreed upon measures, PSE, may, after reasonable notice to Grantee, remove Grantee's Improvements, restore the ground or take such measures at the expense of Grantee, and PSE shall not be liable therefor.

17. Third Party Rights. PSE reserves all rights with respect to its property including, without limitation, the right to grant easements, licenses and permits to others subject to the rights granted in this Agreement.

18. Release and Indemnity. Grantee does hereby release, indemnify and promise to defend and save harmless PSE from and against any and all liability, loss, cost, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by PSE in defense thereof, asserted or arising directly or indirectly on account of or out of (1) acts or omissions of Grantee and Grantee's servants, agents, employees, and contractors in the exercise of the rights granted herein, or (2) acts and omissions of PSE in its use of PSE'S Property which affect Grantee's employees, agents, contractors, and other parties benefiting from said Improvements; provided, however, this paragraph does not purport to indemnify PSE against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of PSE or PSE'S agents or employees.

19. Insurance. Prior to Grantee's construction activities or other substantial activities on PSE'S Property under the rights provided herein, Grantee shall submit to PSE evidence that Grantee or Grantee's contractors has obtained comprehensive general liability coverage naming PSE as an additional insured (including broad form contractual liability coverage) satisfactory to PSE with limits no less than the following:

Bodily Injury Liability, including automobile bodily injury	\$2,000,000 each occurrence
Property Damage Liability, including automobile property damage liability	\$2,000,000 each occurrence

Said evidence shall be submitted on PSE'S Certificate of Insurance standard form (which form PSE shall provide upon request) or such other form as PSE may from time to time approve.

Said coverage shall be maintained by Grantee or Grantee's contractors during the period when such activities take place.



200509290054
Skagit County Auditor

20. **Taxes and Assessments.** Grantee shall promptly pay or reimburse PSE for any taxes and/or assessments levied as a result of this Agreement or relating to the Grantee's improvements constructed pursuant to this Agreement.

21. **Title.** The rights granted herein are subject to permits, leases, licenses and easements, if any, heretofore granted by PSE affecting PSE'S Property subject to this Agreement. PSE does not warrant title to PSE'S Property and shall not be liable for defects thereto or failure thereof.

22. **Notices.** Unless otherwise provided herein, notices required to be in writing under this Agreement shall be given as follows:

If to Puget: Puget Sound Energy, Inc.
Corporate Facilities Dept., PSE10S
P.O. Box 97034
Bellevue, WA 98009-9734

If to Grantee: Public Utility District No. 1 of Skagit County
1415 Freeway Drive
Mt. Vernon, WA 98273-1436

Notices shall be deemed effective, if mailed, upon the second day following deposit thereof in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, or upon delivery thereof if otherwise given. Either party may change the address to which notices may be given by giving notice as above provided.

23. **Assignment.** Grantee shall not assign its rights hereunder. No assignment of the privileges and benefits accruing to Grantee herein, and no assignment of the obligations or liabilities of Grantee herein, whether by operation of law or otherwise, shall be valid without the prior written consent of PSE.

24. **Successors.** The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and assigns.

25. **Liability.** In the event of any assignment of the rights hereunder, the liability of Grantee and its assignees shall be joint and several.

EXECUTED as of the date hereinabove set forth.

ACCEPTED:

GRANTEE

GRANTOR

PUD NO.1 OF SKAGIT COUNTY

PUGET SOUND ENERGY, INC.

By: Kenneth K. Kukuk
Kenneth K. Kukuk

By: [Signature]

Its: General Manager
General Manager

Its: Director, Corporate Facilities

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

SEP 29 2005

Amount Paid \$
Skagit Co. Treasurer
By: [Signature] Deputy




200509290054
Skagit County Auditor

STATE OF WASHINGTON)
) SS.
COUNTY OF KING)

On this 21 day of SEPTEMBER, 2005, before me, the undersigned, personally appeared R. S. MCNULTY, to me known to be the Director Corporate Facilities of PUGET SOUND ENERGY, INC., the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year above written.



Print Name PERRY M AUBRIGHT
Notary Public in and for the State of
Washington, residing at SEATTLE
My commission expires 9/21/06

STATE OF WASHINGTON)
) SS.
COUNTY OF ~~KING~~ SKAGIT)

On this 9th day of September, 2005, before me, the undersigned, personally appeared Kenneth K. Kukuk, to me known to be the General Manager of PUD #1 of Skagit County that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year above written.



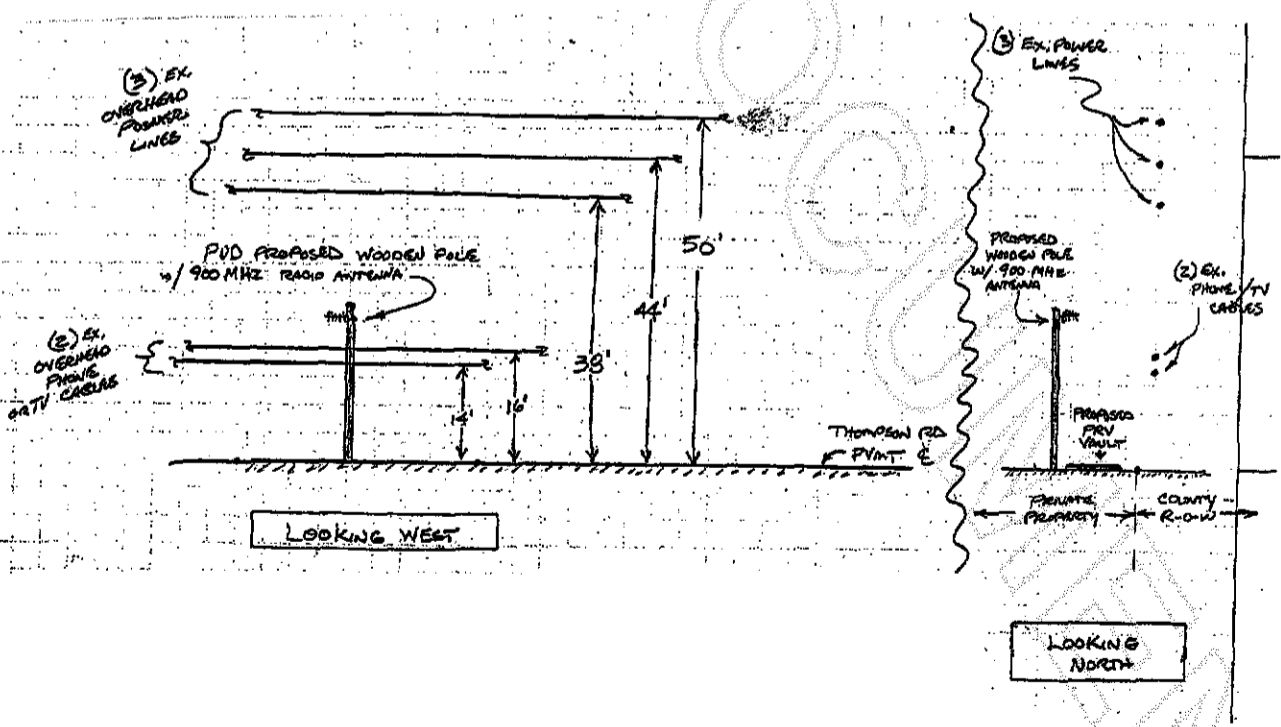
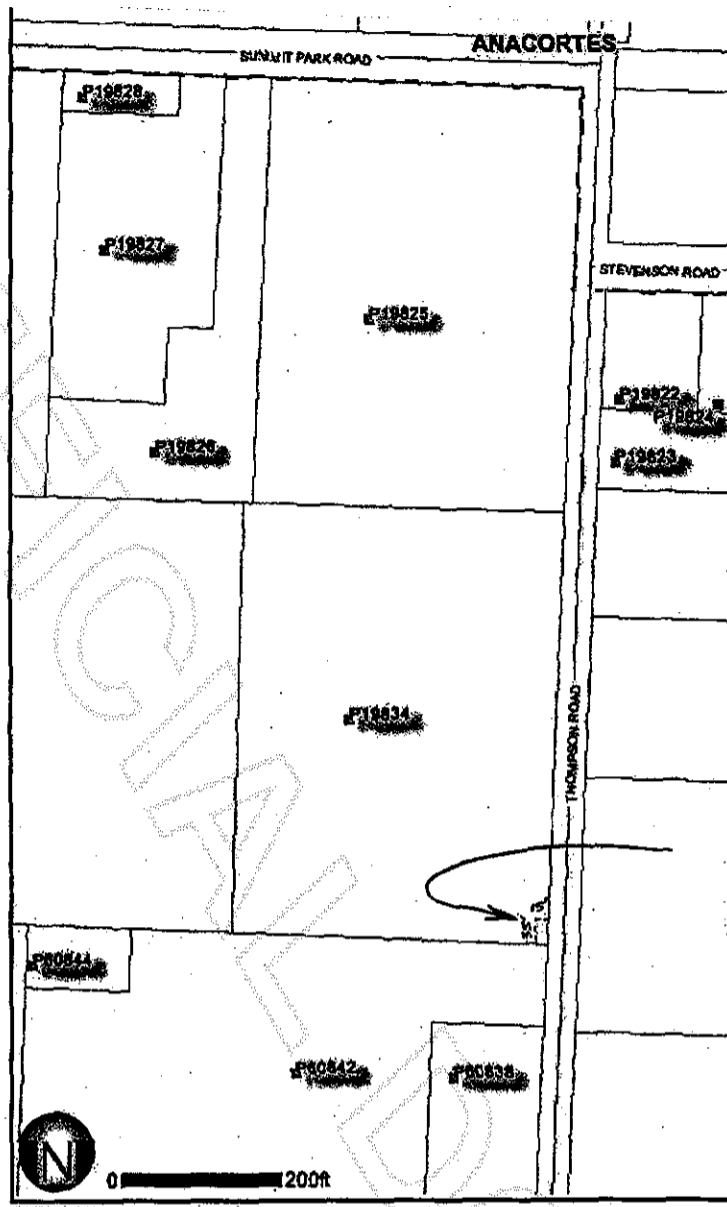

Print Name Kim A. Carpenter
Notary Public in and for the State of
Washington, residing at Mauit Vernon

My commission expires 08/09/2009



200509290054
Skagit County Auditor

EXHIBIT A



200509290054
Skagit County Auditor