

Ordinance No. 123522

Council Bill No. 117028

AN ORDINANCE relating to the South Fork Tolt Hydroelectric Project; authorizing an installation, maintenance and operation agreement for certain distribution facilities; a distribution interconnection agreement; a long-term retail electric service agreement; and other necessary or convenient agreements; all for the provision of reliable long-term retail electric service to the water storage, diversion, conveyance, and water treatment facilities associated with the South Fork of the Tolt River; and ratifying and confirming prior acts.

CF No. _____

Date Introduced:	<u>Nov. 1, 2010</u>		
Date 1st Referred:	<u>Nov. 1, 2010</u>	To:	Seattle Public Utilities and Neighborhoods
Date Re - Referred:		To: (committee)	
Date Re - Referred:		To: (committee)	
Date of Final Passage:	<u>1/18/2011</u>	Full Council Vote:	<u>7-0</u>
Date Presented to Mayor:	<u>1/19/2011</u>	Date Approved:	<u>1-24-11</u>
Date Returned to City Clerk:	<u>1-24-11</u>	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:	
Date Passed Over Veto:		Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

~~_____~~

Councilmember

Committee Action:

1/11/11 Yes: MO, BM No: X et

1/18/2011 Full Council PASSED 7-0 (RC, NL: Excused)

This file is complete and ready for presentation to Full Council. Committee: _____ (Initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

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Indexed

ORDINANCE 123522

AN ORDINANCE relating to the South Fork Tolt Hydroelectric Project; authorizing an installation, maintenance and operation agreement for certain distribution facilities; a distribution interconnection agreement; a long-term retail electric service agreement; and other necessary or convenient agreements; all for the provision of reliable long-term retail electric service to the water storage, diversion, conveyance, and water treatment facilities associated with the South Fork of the Tolt River; and ratifying and confirming prior acts.

WHEREAS, Seattle Public Utilities ("SPU") operates water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the "Water Project"); and

WHEREAS, Seattle City Light ("City Light") operates the South Fork Tolt Hydroelectric Project that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the "Power Project"); and

WHEREAS, Puget Sound Energy ("PSE"), although not directly connected to the Water Project, provides retail electric service to the Water Project through a single 13.8/12.47 kV electric service transformer owned by City Light that is located within the Power Project's switchyard; and

WHEREAS, City Light delivers distribution voltage energy, on behalf of PSE, to the Water Project at a meter in the Power Project's powerhouse, where the total amount of energy is returned by PSE to City Light during the month following the month of energy delivery; and

WHEREAS, a major winter storm in 2006 resulted in an extended electric service outage due, among other things, to the failure of the single electric service transformer in the Power Project's switchyard; and

WHEREAS, SPU has requested that PSE enhance its electric service equipment in order to maintain the Water Project's continuous supply of water for municipal and industrial use in the Seattle Metropolitan area; and



WHEREAS, PSE, City Light and SPU have agreed to cooperate on the installation of a new 13.8/12.47 kV electric service transformer to be owned by PSE adjacent to the existing service transformer owned by City Light at or near the Power Project's switchyard to serve as the primary electric service transformer to the Water Project; and

WHEREAS, PSE desires to utilize the services of City Light and has agreed to fairly compensate City Light for its actual costs of installation, operation and maintenance of the new transformer and related equipment, as well as for the continued maintenance of the existing electric service transformer, which will serve as an unconnected backup electric service transformer to the Water Project; and

WHEREAS, SPU, City Light and PSE each desire to clarify the ownership and emergency repair of and maintenance responsibilities for the distribution facilities that provide retail electric service to the Water Project; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of Seattle Public Utilities, or his designee, is hereby authorized to execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Retail Electric Service Agreement with PSE, substantially in the form of the agreement attached hereto as Attachment 1. The agreement sets forth the terms under which PSE will provide retail electric service to the Water Project.

Section 2. The Superintendent of City Light, or his designee, is hereby authorized to execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Installation, Operation and Maintenance Agreement, substantially in the form of the agreement attached hereto as Attachment 2. The agreement sets forth the terms under which City Light will install and maintain, at PSE's expense, the distribution facilities that provide retail electric service to the Water Project.



1
2 Section 3. The Superintendent of City Light, or his designee, is hereby further authorized
3 to execute for and on behalf of the City of Seattle a distribution interconnection agreement,
4 substantially in the form of the agreement attached hereto as Attachment 3, as well as any other
5 agreements necessary or convenient to facilitate the safe delivery of reliable electric service to the
6 Water Project, while providing fair compensation to City Light for supporting PSE's provision of
7 retail electric service to SPU at this location.
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9 Section 4. Any act consistent with the authority of this ordinance that is taken prior to its
10 effective date is hereby ratified and confirmed.
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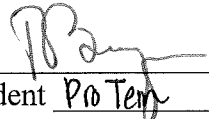


Section 5. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

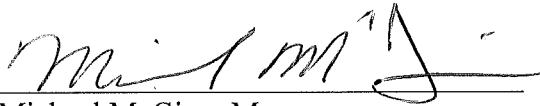
Passed by the City Council the 18th day of January, ^{2011^{ans}}~~2010~~, and

signed by me in open session in authentication of its passage this


18th day of January, ^{2011^{ans}}~~2010~~


President Pro Tem of the City Council

Approved by me this 24th day of January, 2010.


Michael McGinn, Mayor

Filed by me this 24th day of January, 2010. ^{2011^{ans}}~~2010~~


City Clerk

(Seal)

Attachments:

- Attachment 1 – South Fork Tolt Facilities Retail Electric Service Agreement
- Attachment 2 – South Fork Tolt Facilities Installation, Operation and Maintenance Agreement
- Attachment 3 – South Fork Tolt Distribution Facilities Agreement



Attachment 1

**SOUTH FORK TOLT FACILITIES RETAIL ELECTRIC SERVICE
AGREEMENT**

This South Fork Tolt Facilities Retail Electric Service Agreement (the "**Agreement**"), dated as of June 11, 2010 is entered into by The City of Seattle, acting by and through its Seattle Public Utilities Department ("**SPU**") and Puget Sound Energy, Inc. ("**PSE**"), a Washington corporation. SPU and PSE are individually referred to as "**Party**" or collectively as "**Parties**".

WHEREAS, SPU operates water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the "**Water Project**"); and

WHEREAS, The City of Seattle's City Light Department ("**City Light**") operates a hydroelectric project on the South Fork of the Tolt River that includes electric distribution lines (except those lines and transformer owned by PSE) between the hydroelectric project power plant and the Water Project (the "**Power Project**"); and

WHEREAS, PSE provides, and SPU purchases, retail electric service to the Water Project which is delivered through a single 13.8/12.47 kV electric service transformer located within the Power Project's switchyard; and

WHEREAS, SPU represents that the Water Project provides a continuous supply of high quality water for municipal and industrial purposes in the Seattle Metropolitan area; and

WHEREAS, SPU represents that the Water Project depends on its electrical service in order to meet the continuous supply demands of the Seattle Metropolitan area; and

WHEREAS, pursuant to the South Folk Tolt Facilities Installation, Operation and Maintenance Agreement, dated June 11, 2010, by and between City Light and PSE (the "**Installation, Operation and Maintenance Agreement**"), City Light will (i) design, purchase, permit, construct and install a new 13.8/12.47 kV electric service transformer adjacent to the existing service transformer at or near the Power Project's switchyard (the "**Main Service Transformer-Bank B**") to serve as the primary electric service transformer; (ii) maintain and operate the Main Service Transformer-Bank B; and (iii) maintain and operate the existing service transformer, which, after the installation of Main Service Transformer-Bank B, will serve as the backup electric service transformer (the "**Backup Service Transformer**").

NOW THEREFORE, SPU and PSE agree as follows:



SECTION 1. RETAIL ELECTRIC SERVICE

- A. PSE shall provide, and SPU shall purchase, electric service at the Water Project under the rates, terms and conditions of (i) Schedule 31 (Primary General Service) as it may be revised from time to time ("**Schedule 31**"), or any successor or other retail rate schedule of general applicability to commercial customers similarly situated to SPU, (ii) Schedule 80 (General Rules and Provisions) as it may be revised from time to time ("**Schedule 80**"), and (iii) this Agreement as it may be revised from time to time. Notwithstanding the foregoing, SPU may elect, at any time, to receive electric service at the Water Project pursuant to any other available PSE rate schedule in accordance with the terms of such rate schedule, including without limitation terms regarding availability, applicability, voltage, or type of customer.
- B. The term of this Agreement shall (i) commence at 0000 hours on the date immediately following the Commercial Operation Date and (ii) terminate at 2400 hours on the twenty-fifth anniversary of the Commercial Operations Date (the "**Term**"), unless sooner terminated pursuant to section 1, paragraph C below. For purposes of this Agreement, "**Commercial Operation Date**" means the date on which the Main Service Transformer-Bank B commences commercial operation after trial operation of such transformer has been completed and confirmed in writing to PSE by City Light.
- C. During the Term, SPU shall take electric service at the Water Project exclusively from PSE; provided, however, that SPU may, in its sole discretion, choose to receive electric service at the Water Project from a provider other than PSE if (1) PSE terminates this Agreement prior to the end of the Term for any reason by providing notice to SPU, (2) PSE fails to cure a breach of the Installation, Operation and Maintenance Agreement within thirty (30) days after PSE's receipt of a notice from City Light of such breach of the Agreement and City Light elects to terminate the Installation, Operation and Maintenance Agreement prior to the end of the Term, (3) PSE elects to terminate the Installation, Operation and Maintenance Agreement prior to the end of the Term, or (4) the Installation, Operation and Maintenance Agreement terminates through its automatic termination provisions.

SECTION 2. METERS AND ACCESS

- A. PSE shall install, provide, maintain and test meters and metering equipment at the retail Point of Delivery.
- B. SPU, subject to the conditions set forth in 2C. below, hereby grants to PSE a right to, at reasonable times mutually agreeable to the Parties, enter the property of SPU for the purpose of reading any and all PSE meters that are installed on such property; provided, however, that such right shall be consistent with and subject to any applicable national security and electrical reliability requirements.

- C. PSE will immediately cease any operation on or around the Power Project which SPU considers detrimental to water quality or water quantity upon notice from SPU. Prior to issuing such notice and subject to limitations imposed by regulatory requirements, SPU shall make a good faith effort to discuss with PSE the perceived cause of any water quality or quantity concern and shall attempt to resolve the problem in a mutually agreeable manner.

SECTION 3. EMERGENCY OPERATIONS

In the event of an electrical service outage at the Water Project, SPU shall promptly notify PSE of the outage by telephone call to PSE's outage dispatcher at 866-297-7238 (primary number) or 888-539-4773 (backup number). PSE may change the telephone numbers of its outage dispatcher by giving written notice of such change to SPU.

SECTION 4. MISCELLANEOUS

- A. Neither Party shall voluntarily sell, assign, encumber, dispose of or otherwise transfer this Agreement or any right, interest or benefit under this Agreement without the prior written consent of the other, which consent shall not be unreasonably denied, delayed or withheld; provided however, that SPU hereby consents to any such sale, assignment, encumbrance, disposition or transfer by PSE to (a) a successor in operation of all or substantially all of the properties of PSE or (b) any holder (or the trustee of any holder) of the debt of PSE pursuant to the terms of a mortgage, trust, security agreement, indenture or other instrument of indebtedness to which PSE and such holder (or such trustee) are parties, as security for bonds or other indebtedness of PSE, past or future. Neither the pledge, mortgage or grant of any lien for security by PSE of any of its rights in this Agreement or any right, interest or benefit that PSE may have under this Agreement, nor the execution of a pledge, mortgage, security agreement, indenture or trust deed or a judicial or foreclosure sale made thereunder, shall be deemed a voluntary transfer within the meaning of this section 4, paragraph A. No assignment by either Party shall relieve or release it to any extent of any of its obligations hereunder. Subject to the foregoing restrictions, this Agreement shall be fully binding upon, inure to the benefit of and be legally enforceable by the Parties and their respective successors, assigns and legal representatives.
- B. Unless otherwise provided elsewhere in this Agreement, any notice or other communication related to this Agreement, shall be in writing and shall be deemed to have been received if delivered in person, First Class United States Postal Service mail, by facsimile or sent by acknowledged delivery to the following addresses, as may be amended by the Parties by providing notice of such updated addresses in accordance with this paragraph B:



If to PSE:

Puget Sound Energy, Inc.
Attn: Major Accounts Department
10885 NE 4th Street
M/S PSE-11N
Bellevue, WA 98004-5591
Telephone: 425-456-2298
Facsimile: 425-462-3496
Email: john.campion@pse.com

If to SPU:

Seattle Public Utilities
Attn: Tolt Water Treatment Facility
Contract Manager
Water Quality Laboratory
800 S. Stacy Street
Seattle, WA 98134
Telephone: 206-233-1522
Facsimile: 206-684-4133
Email: alex.chen@seattle.gov

- C. This Agreement shall be governed by the laws of the state of Washington without reference to its choice of law principles to the contrary.
- D. This Agreement may be amended or modified only by a writing signed by both Parties.
- E. Any failure or delay in the exercise of any right or remedy available to a Party hereunder shall not be construed as a waiver or relinquishment of such right or remedy.
- F. Any rule or principle of contractual construction that would otherwise require any aspect of this Agreement to be interpreted against the Party primarily responsible for its drafting will not be employed in the interpretation of this Agreement.
- G. Neither Party shall be liable for any indirect, incidental, special, exemplary, punitive, or consequential or pure financial damages arising in connection with the Facilities or this Agreement, including without limitation, lost profits, even if such Party has been advised of the possibility of such damages or such damages are otherwise foreseeable.
- H. This Agreement sets forth the entire agreement, and supersedes any and all prior and contemporaneous agreements and understandings, written or oral, of the Parties regarding the subject matter hereof. PSE and the City of Seattle, by and through its Seattle City Light Department, have entered into the separate Installation, Operation and Maintenance Agreement regarding the installation, operations, and maintenance of a transformer that serves the Water Project. Nothing in this Agreement is intended to limit or otherwise affect the rights, duties or obligations of City Light and PSE set forth in the Installation, Operation and Maintenance Agreement.
- I. Schedule 31 and Schedule 80 are incorporated herein by this reference. This Agreement is subject to Schedule 31 and Schedule 80 (and is subject to other schedules of PSE's Electric Tariff G that may apply) as such schedules may be revised from time to time. Any conflict between this Agreement and PSE's



Electric Tariff G schedules shall be resolved in favor of PSE's Electric Tariff G schedules.

- J. Nothing in this Agreement is intended to limit or otherwise affect any of the provisions of any applicable schedule of PSE's Electric Tariff G or the rules and regulations of the WUTC.

**THE CITY OF SEATTLE,
SEATTLE PUBLIC UTILITIES**

PUGET SOUND ENERGY, INC.

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Signature Date _____

Signature Date _____



Attachment 2

SOUTH FORK TOLT FACILITIES INSTALLATION, OPERATION AND MAINTENANCE AGREEMENT

This South Fork Tolt Facilities Installation, Operation, and Maintenance Agreement (the "**Agreement**") , dated as of June 11, 2010 is entered into by The City of Seattle, by and through its City Light Department ("**City Light**") and Puget Sound Energy ("**PSE**"), a Washington corporation. City Light and PSE are individually referred to as "**Party**" or collectively as "**Parties**".

WHEREAS, City Light operates a hydroelectric project on the South Fork of the Tolt River that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the "**Power Project**"); and

WHEREAS, PSE provides retail electric service to Seattle Public Utilities, a department of The City of Seattle ("**SPU**"), through a single 13.8/12.47 kV electric service transformer described below at the water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the "**Water Project**"); and

WHEREAS, the Water Project currently receives electric service from PSE through a single 13.8/12.47 kV transformer owned by City Light and located within the Power Project's switchyard; and

WHEREAS, in 2006 SPU experienced an outage due to the failure of the 13.8/12.47 kV service transformer within the Power Project's switchyard as the result of a major storm; and

WHEREAS, SPU desires to improve its electrical service in order to maintain the Water Project's continuous supply of water for municipal and industrial use in the Seattle Metropolitan area; and

WHEREAS, SPU desires the installation of a new 13.8/12.47 kV electric service transformer (the "**Main Service Transformer-Bank B**") to be owned by PSE adjacent to the existing service transformer owned by City Light at or near the Power Project's switchyard, to serve as the primary electric service transformer to the Water Project; and

WHEREAS, PSE desires to utilize the services of City Light in the installation, operation, and maintenance of the Main Service Transformer-Bank B; and

WHEREAS, PSE desires to utilize the services of City Light in the continued maintenance of the existing service transformer (the "**Backup Service Transformer**")



owned by City Light, which, after the installation of Main Service Transformer-Bank B, will serve as the unconnected backup electric service transformer to the Water Project.

NOW THEREFORE, City Light and PSE agree as follows:

SECTION 1. TERM AND TERMINATION

- A. The term of this Agreement shall (1) commence upon execution of this Agreement by both City Light and PSE and (2) terminate at 2400 hours on the twenty-fifth anniversary of the Commercial Operations Date (the "**Term**"), unless sooner terminated pursuant to section 1, paragraph B or paragraph C, below. For purposes of this Agreement, "**Commercial Operation Date**" means the date on which the Main Service Transformer-Bank B is placed into service after trial operation of such transformer has been completed and confirmed in writing to PSE by City Light.
- B. If a Party commits a material breach of or default under this Agreement, then the non-breaching Party may give the breaching Party written notice of the breach or default. Such notice will include a statement of the facts relating to the breach or default and the provisions of this Agreement that are applicable to such breach or default. If the breaching Party fails to cure the specified breach or default within thirty (30) days following receipt of such notice (or such later date as may be specified in such notice or such longer period as is reasonably necessary to effect such cure if such cure cannot be accomplished within such 30-day period), then the Term shall automatically be terminated, and the non-breaching Party shall be entitled to all remedies and damages available to it on account of such breach or default at law and in equity. The non-breaching Party may elect to extend the effective date of such automatic termination of the Term for an additional period of time determined in its discretion if (i) the breaching Party commences, in good faith, the cure of such breach within the thirty-day period following the non-breaching Party's notice; and (ii) the non-breaching Party reasonably determines that the breaching Party is diligently pursuing a cure for such breach.
- C. The Term shall automatically terminate upon occurrence of any of the following: (1) the FERC license for the Power Project terminates or expires without renewal by City Light or (2) SPU ceases to be a retail electric service customer of PSE at the Water Project.
- D. Upon termination of the Term, PSE shall remove the New PSE Facilities, as defined in section 2, paragraph A below, at PSE's expense, unless PSE and City Light mutually agree upon terms for the sale by PSE to City Light of the New PSE Facilities within sixty (60) days of the date of such automatic termination.



SECTION 2. FACILITIES

- A. For purposes of this Agreement, "**New PSE Facilities**" means (1) a set of three #1/0 CU, 15 kV, underground cables in conduit and terminations between the Tolt Powerhouse and Main Service Transformer-Bank B, (2) the 3,750 KVA 13.8 kV/12.47 kV XFMR Main Service Transformer-Bank B, and (3) a set of three #1/0 CU, 15 kV, underground cables in conduit and terminations between Main Service Transformer-Bank B and Terminal Pole # TR 0/1, all as shown and each as defined in Exhibit A, SPU Water Treatment Facility Electrical Service Diagram. Pursuant to section 3, City Light shall design, permit, construct, and install the New PSE Facilities.
- B. For purposes of this Agreement, "**New City Light Facilities**" means a new concrete pad for the Backup Service Transformer, as shown in Exhibit B-1, Partial View Extracted from Exhibit B. The Backup Service Transformer shall remain the property of City Light at all times.
- C. The New PSE Facilities and the New City Light Facilities are referred to together in this Agreement as the "**New Facilities.**" For purposes of this Agreement, "**Plans**" means the following drawings, all as may be modified by the mutual agreement of the respective project managers of the Parties from time to time:
- (1) SPU Water Treatment Facility Electrical Service Diagram (Exhibit A); and
 - (2) City Light Powerhouse Switchyard Electrical Plan and Sections—D-32392 (Exhibit B).
 - (3) Partial View Extracted from Exhibit B (Exhibit B-1)

The New Facilities and the location or route for the cables and transformer are depicted in the Plans.

- D. Following City Light's design, purchase, permitting, construction, and installation of the New Facilities in accordance with section 3 below, ownership of the New PSE Facilities shall pass from City Light to PSE when PSE has fully paid for such design, permitting, purchase, construction and installation of the New PSE Facilities. Ownership of the New PSE Facilities shall pass free and clear of all liens, and the New PSE Facilities shall thereafter remain the property of PSE at all times. The New City Light Facilities shall become and remain the property of City Light at all times.
- E. PSE's point of delivery of retail electric service for the Water Project shall be at Terminal Pole #TR 0/1 (the "**Point of Delivery**").



SECTION 3. DESIGN, CONSTRUCTION, AND INSTALLATION

- A. Subject to the other provisions of this Agreement, City Light shall design, permit, purchase, construct and install the New Facilities in accordance with the Plans. Notwithstanding the foregoing and any other provision of this Agreement to the contrary, during construction and installation of the Facilities, City Light shall have the right to make modifications to the New Facilities, with or without any modification of the Plans or review by PSE, to the extent necessary to address emergency conditions, events or circumstances; provided that, as soon as is practicable, City Light shall provide to PSE a reasonably detailed description of the modifications made and of such emergency conditions, events or circumstances.
- B. If permits or authorizations are necessary for the construction and installation of the New Facilities, City Light shall apply for such permits and authorizations.
- C. Promptly after completion of construction and installation of the New Facilities, City Light shall deliver to PSE final electrical and civil drawings with sufficient detail to provide PSE with a clear understanding of the New Facilities, as constructed or modified.
- D. City Light shall use commercially reasonable efforts to complete the work necessary to construct and install the New Facilities so that the Commercial Operation Date occurs on or before June 30, 2010.
- E. City Light shall notify PSE in writing of the intended Commercial Operation Date at least fourteen (14) calendar days prior thereto.

SECTION 4. OPERATIONS AND MAINTENANCE

- A. City Light shall, during the Term and consistent with this Agreement and Prudent Utility Practice, operate the New PSE Facilities and when requested by PSE, City Light shall repair the New PSE Facilities from time to time, consistent with this Agreement and Prudent Utility Practice. City Light shall also inspect and maintain the New PSE Facilities as requested by PSE from time to time, consistent with this Agreement and Prudent Utility Practice, with respect to the following items: (1) perform analysis of dissolved gas in the main tank, including comparison of results with previous and factory results; (2) perform infrared scan of tank walls and interconnecting lines, including comparison of results with previous infrared scan results; (3) physically examine the transformer main tank oil, including comparison of results with previous and factory results; and (4) other tests or procedures as mutually agreed. For purposes of this Agreement, "**Prudent Utility Practice**" means



- (i) any of the practices, methods and acts that when engaged in, have previously been engaged in or approved by a significant portion of the electric utility industry; or
- (ii) in the absence of the practices, methods and acts referred to in the immediately preceding clause (i), any of the practices, methods and acts that in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable law, reliability, safety, efficiency and expedition.

Prudent Utility Practice is not limited to the optimum practice, method or act, but rather is a spectrum of possible practices, methods or acts.

- B. Notwithstanding the foregoing and any other provision of this Agreement to the contrary, during the operation, inspection, maintenance and repair of the New Facilities, City Light shall have the right to make modifications to the New Facilities, with or without any modification of the Plans or review by PSE, to the extent necessary to address emergency conditions, events or circumstances; provided that, as soon as is practicable, City Light shall provide to PSE a reasonably detailed description of the modifications made and of such emergency conditions, events or circumstances.
- C. In the event that either Party determines, or is notified of, an electrical service outage at the Water Project, such Party shall immediately notify the other Party of the outage, and each Party shall coordinate its efforts to restore electrical service in a timely manner. Appropriate contacts for each Party and SPU are included in Exhibit C, Contact List for City Light, PSE and SPU. The contacts may be updated from time to time.
- D. City Light shall give PSE at least two weeks' advance written notice (by facsimile or otherwise in accordance with section 8, paragraph B below) of planned maintenance and repairs that will result in an outage to the New Facilities or to SPU; provided that, if it is not practicable under the circumstances for City Light to give two weeks' advance written notice, City Light shall give notice as much advance notice within two weeks prior to such maintenance and repairs as is reasonably practicable.
- E. PSE shall be responsible for all future costs associated with capital upgrades to the New PSE Facilities that may be mutually agreed upon between the Parties from time to time.
- F. City Light shall continue to own, operate, inspect, maintain and repair the Power Project, including the electric transmission and distribution lines associated with the Power Project and electric service to the Water Project, with the exception of



the facilities identified as items 1, 2, and 3 in Exhibit A, which PSE shall own and City Light shall operate, inspect, maintain and repair pursuant to this Agreement.

- G. PSE may inspect the New PSE Facilities with prior request to and coordination with City Light. In the event of an outage, a power shortage, or an adverse condition or disturbance, PSE may coordinate with City Light on emergency actions that may include, but not be limited to, reduction or interruption of the supply of electricity to the point of delivery to compensate for an emergency condition or to temporarily bypass the New PSE Facilities. Any work to be performed within the City Light switchyard and powerhouse will be conducted by City Light.
- H. In the event that no generation is available from the Power Project to supply the electric load of the Water Project and the Main Service Transformer-Bank B or Backup Service Transformer are in service, PSE shall provide electrical service to the Water Project from PSE's Stillwater Substation through the Power Project's switchyard, provided that all necessary electrical components in the switchyard and the powerhouse (e.g., metering, system protection, and communication) are operational, or as otherwise agreed between PSE and City Light.
- I. City Light shall comply with the substantive requirements of all applicable federal, state and local environmental laws in the performance of its obligations hereunder, including but not limited to federal, state and local environmental laws and regulations applicable to the containment and disposal of hazardous substances. City Light hereby represents to PSE, to the best of City Light's knowledge, information and belief, that as of the date of execution: (a) the real property, buildings, structures and other improvements that constitute the Power Project's switchyard (the "Premises") are not in violation of any environmental law; (b) no hazardous substances are located on or have been handled, generated, stored, processed or disposed of on or released or discharged from the Premises (including underground contamination) except for those substances used in the ordinary course of business and in compliance with all applicable environmental laws; and (c) the Premises are not subject to any private or governmental lien or judicial or administrative notice or action relating to hazardous substances.

SECTION 5. BILLING AND PAYMENT

- A. Not later than thirty (30) days after the Agreement is executed by City Light and PSE, City Light shall mail to PSE a statement showing the computation in reasonable detail of the amount due City Light for the purchase and delivery of the Main Service Transformer-Bank B. Within thirty (30) days following receipt of any such statement, PSE shall pay to City Light the amount set forth in such statement, subject to the provisions in paragraph B below.



- B. City Light shall invoice PSE for the reasonable costs and expenses actually incurred by City Light in the design, purchase, permitting, installation, operation, inspection, maintenance and repair of the New Facilities. Actual costs and expenses for both emergency and non-emergency work shall reflect reasonable time and materials spent on engineering design and review, on-site inspection of the New Facilities and any necessary work required on existing City Light Facilities to accommodate the New Facilities. Such costs shall be billed at City Light's standard time and materials fees.
- (1) In the case of non-emergency work performed at PSE's request, City Light shall provide PSE with a good-faith estimate of the proposed work prior to the commencement of work. Any City Light estimates for such work shall include the most current version of City Light's standard time and materials fees. PSE will review such estimates and shall, within a commercially reasonable time, provide City Light with authorization to commence the work.
 - (2) In the case of emergency work, City Light may immediately commence such work as it deems necessary, but shall provide notice of emergency work performed as soon as reasonably practicable after the commencement of such work.
- C. PSE shall pay all amounts invoiced for non-emergency work and emergency work within thirty (30) days of its receipt of such invoice. If PSE determines, in its reasonable discretion, that any amounts invoiced are not reasonable for the work performed, PSE may withhold such disputed amounts and shall promptly submit them for resolution in accordance with the dispute resolution procedure set forth in section 6 below, provided that PSE timely pays all undisputed amounts. PSE shall promptly pay any amounts determined through the dispute resolution procedures to be owed by PSE.
- D. Should PSE fail to timely pay any bill (excluding any such amounts submitted for dispute resolution in accordance with paragraph B above), interest on such bills shall accrue at a rate of 1% per month (unless a lower rate is prescribed by law or applicable regulation, in which event at the highest rate allowed by such law or regulation).
- E. City Light statements shall be mailed to:
- Puget Sound Energy, Inc.
Attn: Major Accounts Department
10885 NE 4th Street
M/S PSE-11N
Bellevue, WA 98004-5591
Telephone: (425) 456-2298



Cell: (206) 604-5836
Facsimile: (425) 462-3496
Email: john.campion@pse.com

- F. The cost and payment provisions in this Agreement represent an agreement between City Light and PSE and have no impact on the provision of service to SPU. City Light acknowledges that PSE will pass through costs it incurs to SPU in accordance with applicable tariffs.

SECTION 6. DISPUTE RESOLUTION

- A. Any cause of action, claim or dispute that either Party may have against the other Party arising out of or relating to this Agreement, including the interpretation of the terms of this Agreement or any applicable law affecting this Agreement, the transactions contemplated hereunder, or a breach, termination or validity thereof ("Dispute") shall be settled in accordance with the procedures described in this section 6.
- B. The Parties shall attempt in good faith to resolve any Dispute promptly by discussions between representatives of each Party who have authority to settle the Dispute. Either Party may give to the other Party notice (a "Dispute Notice") of any Dispute not resolved in the normal course of business. Within five (5) days after delivery of such notice, the representatives shall agree upon a mutually acceptable time and place to meet and shall meet at the time and place agreed, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute. The first such meeting shall take place within thirty (30) days of the Dispute Notice. If a Party intends to be accompanied at any meeting by an attorney, the other Party shall be given at least three business days' notice of that intention and may also be accompanied by an attorney. All discussions pursuant to this section 6 shall be treated as compromise and settlement negotiations for the purposes of applicable rules of evidence and procedure.
- C. If the Parties are unable to resolve the Dispute within thirty (30) days of the first meeting (or such longer period to which the Parties both agree), either Party may require the other to submit to non-binding mediation with the assistance of a neutral, unaffiliated mediator. The mediator shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the mediator (except as a prior mediator).
- D. If the Parties are unable to resolve the Dispute through the foregoing non-binding procedures, each Party shall have the full right to seek resolution of the Dispute through legal action. Any lawsuit relating to a Dispute arising out of or relating to



this Agreement that is not resolved by the non-binding procedures provided above must be brought in a state or federal court located in King County, Washington.

- E. Notwithstanding the Dispute resolution provisions of this section 6, either Party may bring an action in a court of competent jurisdiction in an effort to enforce the provisions of this section 6 and to seek injunctive relief to protect the Party's rights pending resolution of a Dispute pursuant to this section 6.
- F. Each Party shall be responsible for its own costs incurred during the foregoing non-binding procedures and for one half the cost of the single mediator jointly chosen by the Parties.

SECTION 7. LIMITATION OF LIABILITY

THE OBLIGATIONS EXPRESSLY UNDERTAKEN BY EACH PARTY IN THIS AGREEMENT ARE IN LIEU OF, AND EACH PARTY HEREBY DISCLAIMS, ALL REPRESENTATIONS (OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT) AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, SUITABILITY, DURABILITY, CONDITION, QUALITY OF PROJECT MATERIALS AND EQUIPMENT AND FITNESS FOR A PARTICULAR PURPOSE. EACH PARTY SPECIFICALLY WAIVES ALL RIGHT TO MAKE ANY CLAIM AGAINST THE OTHER PARTY FOR BREACH OF ANY WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF THE PROJECT ENGINEERING, MATERIALS OR EQUIPMENT.

SECTION 8. MISCELLANEOUS

- A. Neither Party shall voluntarily sell, assign, encumber, dispose of or otherwise transfer this Agreement or any right, interest or benefit under this Agreement without the prior written consent of the other, which consent shall not be unreasonably denied, delayed or withheld; provided however, that City Light hereby consents to any such sale, assignment, encumbrance, disposition or transfer by PSE to (a) a successor in operation of all or substantially all of the properties of PSE or (b) any holder (or the trustee of any holder) of the debt of PSE pursuant to the terms of a mortgage, trust, security agreement, indenture or other instrument of indebtedness to which PSE and such holder (or such trustee) are parties, as security for bonds or other indebtedness of PSE, past or future. Neither the pledge, mortgage or grant of any lien for security by PSE of any of its rights in this Agreement or any right, interest or benefit that PSE may have under this Agreement, nor the execution of a pledge, mortgage, security agreement, indenture or trust deed or a judicial or foreclosure sale made thereunder, shall be deemed a voluntary transfer within the meaning of this section 8, paragraph A. No assignment by either Party shall relieve or release it to any extent of any of its obligations hereunder. Subject to the foregoing restrictions, this Agreement shall



be fully binding upon, inure to the benefit of and be legally enforceable by the Parties and their respective successors, assigns and legal representatives.

- B. Unless otherwise provided elsewhere in this Agreement, any notice or other communication related to this Agreement, shall be in writing and shall be deemed to have been received if delivered in person, First Class United States Postal Service mail, by facsimile or sent by acknowledged delivery to the following addresses, as may be amended by the Parties by providing notice of such updated addresses in accordance with this paragraph B:

If to PSE:

Puget Sound Energy, Inc.
355 110 Ave. NE, EST-06E
P.O. Box 97034
Bellevue WA 98009-9734
Attention: Manager, Transmission
Contracts
Telephone: (425) 462-3579
Facsimile: (425) 462-3049
Email: john.phillips@pse.com

If to City Light:

Seattle City Light
P.O. Box 34023, Suite 3200
Seattle, WA 98124-4023
Attention: Manager, Wholesale Contracts
Telephone: (206) 684-3534
Facsimile: (206) 386-5555
Email: caroline.dethloff@seattle.gov

- C. This Agreement shall be governed by the laws of the state of Washington without reference to its choice of law principles to the contrary.
- D. This Agreement may be amended or modified only by a writing signed by both Parties.
- E. Any failure or delay in the exercise of any right or remedy available to a Party hereunder shall not be construed as a waiver or relinquishment of such right or remedy.
- F. Any rule or principle of contractual construction that would otherwise require any aspect of this Agreement to be interpreted against the Party primarily responsible for its drafting will not be employed in the interpretation of this Agreement.
- G. This Agreement and the South Fork Tolt Distribution Facilities Agreement constitute, on and as of the date hereof, the entire agreement of the Parties with respect to the subject matter hereof and thereof and supersedes any and all prior and contemporaneous agreements and understandings, written or oral, of the Parties regarding the subject matter hereof. PSE and the City of Seattle, by and through its Seattle Public Utilities Department, have entered into a separate agreement regarding retail electric services relating to the Water Project. Nothing in this Agreement is intended to limit or otherwise affect the rights, duties or



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obligations of SPU and PSE set forth in that certain South Fork Tolt Facilities
Retail Electric Service Agreement dated ___, 2010 between SPU and PSE.

**THE CITY OF SEATTLE,
CITY LIGHT DEPARTMENT**

By _____

Name _____

Title _____

Signature Date _____

PUGET SOUND ENERGY, INC.

By _____

Name _____

Title _____

Signature Date _____

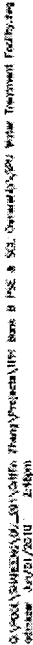


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SPU Tolt Electric Service Agreements ORD
June 14, 2010
Version #2

Exhibit A

SPU Water Treatment Facility Electrical Service Diagram



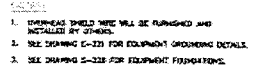


Exhibits B and B-1

Exhibit B: City Light Powerhouse Switchyard Electrical Plan and Sections—D-32392

Exhibit B-1: Partial View Extracted from Exhibit B





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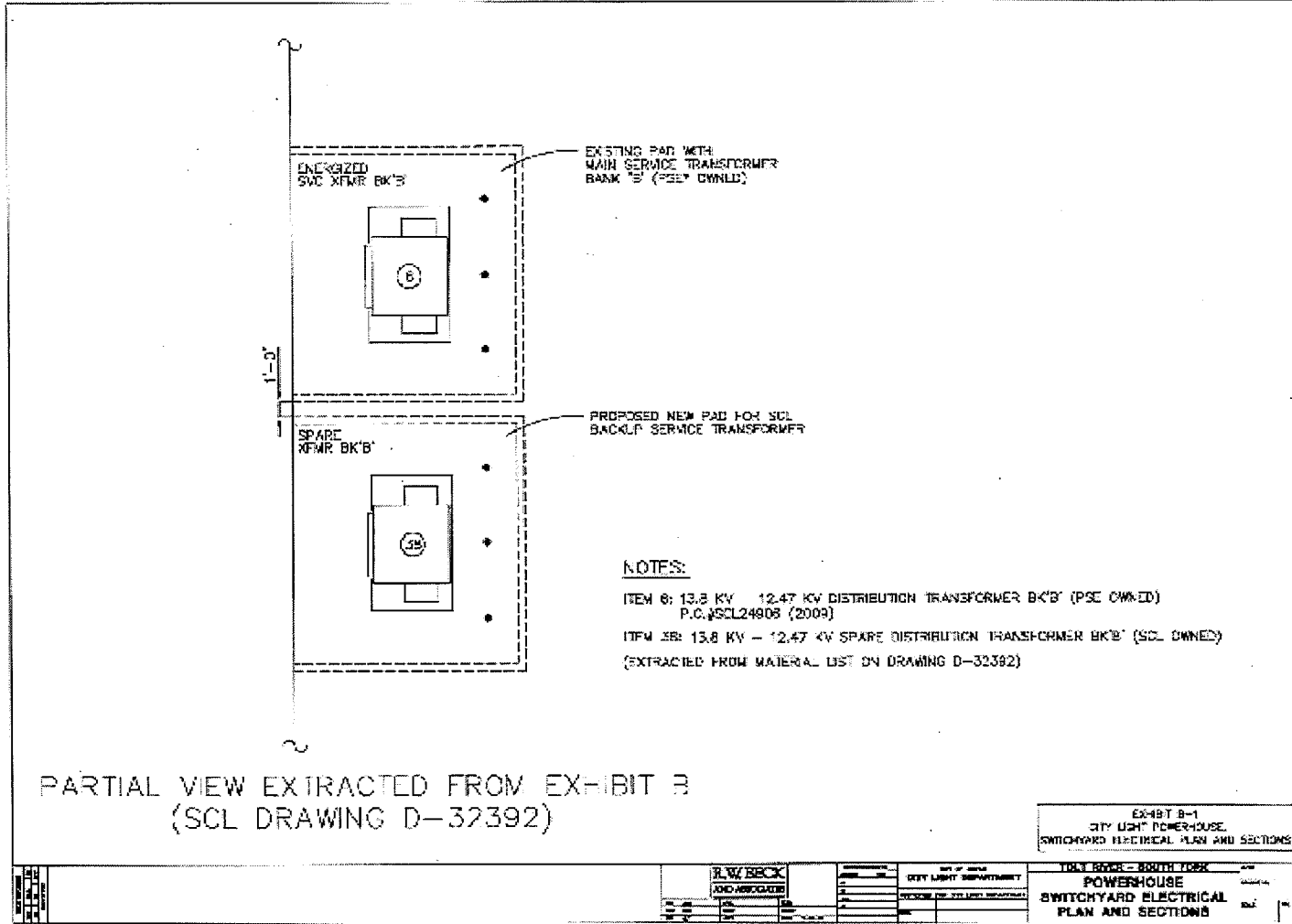


Exhibit C

Contact List for City Light, PSE and SPU



Contact List for City Light, PSE, and SPU

Seattle City Light

Power Dispatcher	206-706-0204/206-706-0203 (24/7)
Outage Dispatcher	206-706-0244 (7:00 a.m.–3:00 p.m.)
Director, System Operations	206-706-0240 206-706-0144 (fax)
South Fork Tolt Powerhouse Manager	206-386-9741 206-455-1953 (cell)
South Fork Tolt Powerhouse Supervisor	206-615-0842 206-963-0178 (cell)
Account Executive Office Manager	206-684-3294
Power Production Electrical Engineering Manager	206-684-3625 206-491-4595

PSE

Power Dispatcher	425-882-4650 (24/7)
System Manager	1-866-297-7238 (24/7) 1-888-539-4773 (24/7)-backup
Major Accounts Executive	425-456-2298

SPU

Operations Control Center	206-386-1818 (24/7)
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Attachment 3

**SOUTH FORK TOLT DISTRIBUTION
FACILITIES AGREEMENT**

This South Fork Tolt Distribution Facilities Agreement (the “**Agreement**”), dated as of **June 11, 2010**, is entered into by The City of Seattle (the “**City**”), by and through its City Light Department (“**City Light**”) and Puget Sound Energy (“**PSE**”), a Washington corporation. Each of City Light and PSE may hereinafter be referred to in the singular as “Party” and in the plural as “Parties”.

WHEREAS, City Light operates a hydroelectric project on the South Fork of the Tolt River that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the “**Power Project**”); and

WHEREAS, PSE provides retail electric service to Seattle Public Utilities, a department of The City of Seattle (“**SPU**”), through a single 13.8/12.47 kV electric service transformer described below at the water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the “**Water Project**”); and

WHEREAS, the Water Project currently receives electric service from PSE through a single 13.8/12.47 kV transformer owned by City Light and located within the Power Project’s switchyard; and

WHEREAS, SPU desires the installation of a new 13.8/12.47 kV electric service transformer to be owned by PSE adjacent to the existing service transformer owned by City Light at or near the Power Project’s switchyard, to serve as the primary electric service transformer to the Water Project; and

WHEREAS, City Light and PSE desire to enter into this Agreement with respect to interconnection of the Parties’ respective electric distribution facilities at the points at or near the Power Project or the Water Project where the electric distribution facilities of PSE and the electric distribution facilities of City Light are interconnected for the purpose of serving PSE’s customer, SPU’s Water Project, during the term of this Agreement.

AGREEMENT

The Parties, therefore, agree as follows:

Section 1. Definitions



Whenever used in this Agreement, the following capitalized terms have the respective meanings set forth below, unless the particular context clearly requires a different meaning.

1.1 "Agreement," "City," "City Light," "PSE," "Party," "Parties," "Power Project," "SPU," "and "Water Project" have the respective meanings set forth above.

1.2 "City Beneficiary" has the meaning set forth in section 6.1.

1.3 "Effective Date" has the meaning set forth in section 2.1

1.4 "Electric Disturbance" means any sudden, unexpected, changed or abnormal electric condition, originating in or transmitted through City Light's electric distribution facilities (including, without limitation, the Power Project) or PSE's electric distribution facilities, which causes damage.

1.5 "Electric Power" means electric peaking capacity, expressed in kilowatts, or electric energy, expressed in kilowatt-hours, or both.

1.6 "FERC" means the Federal Energy Regulatory Commission or its regulatory successors.

1.7 "First Party" has the meaning set forth in section 6.3

1.8 "First Party Beneficiary" has the meaning set forth in section 6.3

1.9 "Installation, Operation and Maintenance Agreement" means the Installation, Operation and Maintenance Agreement, dated **June 11, 2010**, between City Light and PSE.

1.10 "Point of Facilities Interconnection A" means the point within the Power Project Powerhouse where the electric distribution facilities of City Light and the electric distribution facilities of PSE are connected at Breaker 13, Main Service Transformer-Bank B in order to provide electric service to the Water Project.

1.11 "Point of Facilities Interconnection B" means the point where the electric distribution facilities of City Light and the electric distribution facilities of PSE are connected at Terminal Pole #TR 0/1 in order to provide electric service to the Water Project.

1.12 "Power Project License" means the license for the Power Project issued by FERC to the City on March 29, 1984, and any renewal thereof.

1.13 "Prudent Utility Practice" means any of the practices, methods and acts which



(a) when engaged in, have previously been engaged in or approved by a significant portion of the electric utility industry, or

(b) in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable law, reliability, safety, efficiency and expedition.

Prudent Utility Practice is not limited to the optimum practice, method or act, but rather is a spectrum of possible practices, methods or acts.

1.14 "PSE Beneficiary" has the meaning set forth in section 6.2

1.15 "Second Party" has the meaning set forth in section 6.3

1.16 "Willful Action" means any action taken or not taken by a Party at the direction of its employees having management or administrative responsibility affecting its performance under this Agreement, which action

(a) is knowingly or intentionally taken or not taken with conscious indifference to the harmful consequences thereof or with intent that injury or damage would result or probably result therefrom;

(b) has been determined by final arbitration award or final judicial order to be a material breach or a material default under this Agreement and which occurs or continues beyond the time specified in such award or order for curing such breach or default or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such breach or default; or

(c) is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material breach or material default under this Agreement.

"Willful Action" does not include any act or failure to act by a Party (i) which is merely involuntary, accidental or negligent, (ii) which is permitted to be taken by such Party pursuant to this Agreement or (iii) which such Party has no duty to take or refrain from taking pursuant to this Agreement or otherwise. For purposes of this Agreement, the phrase "employees having management or administrative responsibility" means the employees of a Party who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Party's performance under this Agreement with responsibility for the results thereof.

1.17 "WIS Agreement" has the meaning set forth in section 6.6.

Section 2. Term of Agreement



2.1 This Agreement shall be effective at 2400 hours on the date of execution and delivery of this Agreement by both of the Parties (the "**Effective Date**").

2.2 This Agreement shall continue in effect until the earliest of:

- (a) the termination or cancellation of this Agreement pursuant to its terms;
- (b) the termination or cancellation of the operation of the Project, or abandonment of the Project, by the City or by any transferee of the Project License, for any reason whatsoever;
- (c) 2400 hours on the twenty-fifth (25th) anniversary of the Effective Date; and
- (d) the expiration or termination of the Project License.

Unless this Agreement is earlier terminated or cancelled pursuant to this section 2.2, PSE shall offer to enter into, on the twenty-fifth (25th) anniversary of the Effective Date, a written agreement with the City, containing substantially all of the same terms and conditions as are set forth in this Agreement. PSE shall deliver such offer to the City no later than twelve (12) months prior to the twenty-fifth (25th) anniversary of the Effective Date.

Section 3. Facilities Interconnection. Subject to the other terms and provisions of this Agreement, City Light's electric distribution facilities shall during the term of this Agreement be interconnected with PSE's electric distribution facilities at Point of Facilities Interconnection A and Point of Facilities Interconnection B, and PSE's electric distribution facilities shall during the term of this Agreement be interconnected with City Light's electric distribution facilities at Point of Facilities Interconnection A and Point of Facilities Interconnection B. An electrical system one-line diagram of such points of interconnection is attached as Exhibit A to this Agreement. In the event City Light wishes to alter its electrical distribution facilities at either the Point of Facilities Interconnection A or the Point of Facilities Interconnection B, it may do so only with the written consent of PSE, which consent shall not be unreasonably withheld; provided, however, that PSE's failure to respond within thirty (30) days of notice of City Light's wish to alter its electric distribution facilities shall be deemed to constitute consent under this section 3. In the event of alteration of the electric distribution facilities pursuant to this section 3, the Parties shall cause Exhibit A to be changed accordingly.

Section 4. Metering.

4.1 City Light Metering. City Light shall install and, during the term of this Agreement, operate and maintain, or City Light shall arrange for the installation and,



during the term of this Agreement, operation and maintenance of, metering and telemetering equipment at the Point of Facilities Interconnection A. Such metering and telemetering equipment installed at the Point of Facilities Interconnection A is intended to measure the Electric Power delivered by City Light to the Point of Facilities Interconnection A.

4.2 PSE Metering. PSE shall install and, during the term of this Agreement, operate and maintain, or PSE shall arrange for the installation and, during the term of this

Agreement, operation and maintenance of, metering and telemetering equipment at the Point of Facilities Interconnection B. Such metering and telemetering equipment installed at Point of Facilities Interconnection B is intended to measure the Electric Power delivered by PSE to the Point of Facilities Interconnection B.

Section 5. Disconnection.

5.1 City Light, subject to the terms and conditions of the Installation, Operation and Maintenance Agreement, shall have the right at any time during the term of this Agreement, without incurring any liability to PSE or to any other party therefor, to disconnect the electric distribution facilities of City Light from the electric distribution facilities of PSE, or to interrupt, suspend or curtail transmission of Electric Power (through manual operation, automatic operation or otherwise), if City Light determines (or had determined at any time prior to such disconnection, interruption, suspension or curtailment) in the exercise of its sole discretion that failure to do so:

(a) is likely to endanger any person or property or the operation of City Light's electric distribution facilities or any electric system with which City Light is interconnected; or

(b) is likely to cause or contribute to imminent significant disruption of electric service to City Light's customers; or

(c) is likely to interfere with any construction, installation, operation, use, maintenance, repair, replacement, alteration, modification, improvement, inspection or testing of, or addition to, City Light's electric distribution facilities or other property of City Light at the Power Project and is contrary to Prudent Utility Practice; or

(d) is otherwise contrary to Prudent Utility Practice.

City Light shall use reasonable efforts to give PSE reasonable advance written notice of any such disconnection, interruption, suspension or curtailment. City Light shall



promptly notify PSE in writing of the reasons for any such disconnection, interruption, suspension or curtailment. City Light shall use reasonable efforts to mitigate and limit the duration of any such disconnection, interruption, suspension or curtailment. Such disconnection will be at no cost to PSE.

5.2 City Light shall disconnect the electric distribution facilities of City Light from the electric distribution facilities of PSE upon request of PSE. PSE shall use reasonable efforts to give City Light reasonable advance written notice of any such request for disconnection. When City Light performs a disconnection following a request by PSE, City Light shall invoice PSE for the reasonable costs and expenses actually incurred for the disconnection.

Section 6. Limitation of Liability

6.1 PSE hereby releases each of the City, its successors and permitted assigns, and the respective departments (including, without limitation, SPU), elected officials, employees, agents and representatives of the City and its successors and assigns (each, a **"City Beneficiary"**) from any and all claims, losses, injuries, harm, liabilities, damages, costs, charges and expenses (including, without limitation, reasonable attorneys' fees) incurred by PSE in connection with performance of this Agreement in accordance with its terms or arising from or in connection with any of the following:

- (a) operation of City Light's electric facilities in parallel with PSE's electric facilities;
- (b) electric disturbance or fluctuation that migrates, directly or indirectly, from City Light's electric facilities to PSE's electric facilities;
- (c) interruption, suspension or reduction of delivery of power from City Light's electric facilities to PSE's electric facilities, regardless of whether such interruption, suspension or reduction is caused or contributed to by PSE's electric facilities or the interconnection of PSE's electric facilities with City Light's electric facilities; or
- (d) disconnection, interruption, suspension or curtailment by City Light pursuant to section 5 of this Agreement

provided, however, that PSE does not so release any City Beneficiary to the extent that any such claim, loss, injury, harm, liability, damage, cost, charge or expense arises or results from or is caused by any Willful Action or the negligence (whether active, passive or imputed) of such City Beneficiary.

6.2 The City hereby releases each of PSE, its successors and assigns, and the respective directors, officers, employees, agents and representatives of PSE and its

successors and assigns (each, a "**PSE Beneficiary**") from any and all claims, losses, injuries, harm, liabilities, damages, costs, charges and expenses (including, without limitation, reasonable attorneys' fees) incurred by the City in connection with performance of this Agreement in accordance with its terms or arising from or in connection with any of the following:

- (a) operation of PSE's electric facilities in parallel with City Light's electric facilities;
- (b) electric disturbance or fluctuation that migrates, directly or indirectly, from PSE's electric facilities to City Light's electric facilities; or
- (c) interruption, suspension or reduction of delivery of power from PSE's electric facilities to City Light's electric facilities, regardless of whether such interruption, suspension or reduction is caused or contributed to by City Light's distribution facilities or the interconnection of City Light's electric facilities with PSE's electric facilities;

provided, however, that the City does not so release any PSE Beneficiary to the extent that any such claim, loss, injury, harm, liability, damage, cost, charge or expense arises or results from or is caused by any Willful Action or the negligence (whether active, passive or imputed) of such PSE Beneficiary.

6.3 Neither PSE nor the City (either, a "**First Party**") nor the successors or permitted assigns of the First Party nor the respective directors (if any), elected officials (if any), officers (if any), employees, agents or representatives of the First Party or its successor or assigns shall be liable to the other Party ("**Second Party**") for any claim, loss, injury, harm or damage to the electric facilities of the Second Party caused by or arising out of any Electric Disturbance that migrates, directly or indirectly, from or through the First Party's electric facilities to the Second Party's electric facilities. The Second Party hereby releases the First Party, its successors and assigns, and the respective directors (if any), elected officials (if any), officers (if any), employees, agents and representatives of the First Party and its successors and assigns (each, a "**First Party Beneficiary**"), from any such liability; provided, however, that the Second Party does not so release any of the First Party Beneficiaries to the extent that any such claim, loss, injury, harm, liability, damage, cost, charge or expense arises or results from or is caused by any Willful Action of such First Party Beneficiary.

6.4 Nothing in this Agreement is intended to limit or otherwise affect any release or indemnification by PSE or the City pursuant to any other written agreement among or between the Parties, nor is it intended to affect either Party's responsibility, if any, for any environmental claims, hazards or liabilities.

6.5 Except as otherwise specifically provided in section 6.1 or 6.2, neither Party shall be liable to the other Party under this Agreement for any loss of profit, revenues or expectancies or for any incidental, indirect, special, exemplary, punitive or consequential damages. This provision shall apply notwithstanding anything to the contrary set forth in this Agreement.

6.6 Each of PSE and the City represents to and covenants with the other that it is as of the date of this Agreement a party to the Agreement Limiting Liability Among Western Interconnected Systems (the "**WIS Agreement**"). To the extent that both of PSE and the City are parties to the WIS Agreement, their relationship and liabilities with respect to system damages shall be governed by the WIS Agreement. If either PSE or the City at any time during the term of this Agreement is not a party to the WIS Agreement, then, notwithstanding, the provisions of the WIS Agreement with respect to system damages shall be and continue in full force and effect as between such Parties. For purposes of this section 6.6, the WIS Agreement is incorporated by this reference in this Agreement.



6.7 The provisions of this section 6 shall apply to the fullest extent permitted by applicable law and notwithstanding the provisions of any other paragraph or section of this Agreement; provided, however, that the benefits of this section 6 shall not extend to either Party to the extent that such Party is prevented by federal, state or local law from complying with any of the provisions of this section 6.

Section 7. Notices. Any notice, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be delivered in person, by first-class U.S. mail (stamped with the required postage) or by telecopy, properly addressed to the intended recipient as follows:

If to PSE: Puget Sound Energy, Inc.
355 110 Ave NE, EST-06E
P.O. Box 97034
Bellevue WA 98009-9734
Attention: Manager, Transmission Contracts
Telephone: (425) 462 -3579
Facsimile: (425) 462-3049

If to the City: City Light Department
P.O. Box 34023, Suite 3200
Seattle, WA 98124-4023
Attention: Manager, Wholesale Contracts
Telephone: (206) 684 -3534
Facsimile: (206) 386-4555

Any such notice, request, authorization, direction or other communication delivered in person or by mail pursuant to this section 7 shall be deemed to be delivered to the recipient Party upon receipt, and any such notice, request, authorization, direction or other communication delivered by telecopy pursuant to this section 7 shall be deemed delivered to the recipient Party upon written confirmation of receipt by such recipient Party delivered in person, by mail or by facsimile pursuant to this section 7. Either Party may change its address specified above by giving the other Party notice of such change in accordance with this section 7.

Section 8. Miscellaneous

8.1 Amendments. This Agreement may be amended or modified only by a written agreement hereafter entered into by the City and PSE.

8.2 Nonwaiver. The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any



right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely on any such provision or right in that or any other instance; rather, the same shall be and shall remain in full force and effect. Any waiver at any time by either Party of any of its rights under this Agreement in a particular circumstance or instance shall not constitute a waiver thereof in any other circumstance or instance.

8.3 Entire Agreement; Interpretation of Ambiguities. This Agreement and the Installation, Operation and Maintenance Agreement constitute, on and as of the date hereof, the entire agreement of the Parties with respect to the subject matter hereof and thereof, and all prior agreements, whether written or oral, between the Parties with respect to the subject matter hereof and thereof are hereby superseded in their entireties. Each provision of this Agreement is the product of negotiation between the Parties. Any rule of interpreting ambiguities against the interests of the drafting party shall not be applied in resolving any dispute over the meaning of any provision of this Agreement or the intent of the Parties with respect to such provision.

8.4 No Effect on Other Agreements. Nothing in this Agreement shall amend, modify or otherwise affect any of the provisions of the Installation, Operation and Maintenance Agreement.

8.5 Headings. The paragraph and section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any of the terms or provisions of this Agreement.

8.6 Transfer of Interests. Neither Party shall voluntarily sell, assign, encumber, dispose of or otherwise transfer this Agreement or any right, interest or benefit under this Agreement without the prior written consent of the other, which consent shall not be unreasonably denied, delayed or withheld; provided however, that the City hereby consents to any such sale, assignment, encumbrance, disposition or transfer by PSE to (a) a successor in operation of all or substantially all of the properties of PSE or (b) any holder (or the trustee of any holder) of the debt of PSE pursuant to the terms of a mortgage, trust, security agreement, indenture or other instrument of indebtedness to which PSE and such holder (or such trustee) are parties, as security for bonds or other indebtedness of PSE, past or future. Neither the pledge, mortgage or grant of any lien for security by PSE of any of its rights in this Agreement or any right, interest or benefit that PSE may have under this Agreement, nor the execution of a pledge, mortgage, security agreement, indenture or trust deed or a judicial or foreclosure sale made thereunder, shall be deemed a voluntary transfer within the meaning of this section 8.6. No assignment by either Party shall relieve or release it to any extent of any of its obligations hereunder. Subject to the foregoing restrictions, this Agreement shall be fully binding upon, inure to the benefit of and be legally enforceable by the Parties and their respective successors, assigns and legal representatives.

8.7 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

8.8 Implementation. Each Party shall take such action (including, but not limited to, the execution, acknowledgment and delivery of documents) as may reasonably be requested by the other Party for the implementation and continuing performance of this Agreement.

8.9 Relationship of Parties. Nothing contained in this Agreement shall be construed to create an agency, association, joint venture, trust or partnership, or impose an agency, trust or partnership covenant, obligation or liability on or with regard to either of the Parties. Each Party shall be individually responsible for its own covenants, obligations and liabilities under this Agreement. All rights and obligations of the Parties are several, not joint. Neither Party shall be deemed to control, to be under the control of, or to be the agent of, the other Party.

8.10 No Dedication of Facilities. No undertaking by one Party to the other Party under any provision of this Agreement shall constitute the dedication of the electric facilities (or any portion thereof) of the undertaking Party to the public or to such other Party, and it is understood and agreed that any such undertaking under any provision of this Agreement by a Party shall cease upon the termination, cancellation or completion of such Party's obligations under this Agreement.

8.11 No Retail Services. Nothing contained in this Agreement shall grant any rights to, or obligate either Party to provide, any services hereunder directly to or for retail customers of the other Party.

8.12 No Third Party Beneficiaries. Except as expressly provided with respect to any City Beneficiary, any PSE Beneficiary or any First Party Beneficiary in sections 6.1, 6.2 and 6.3, this Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation or undertaking established herein.

8.13 Survival. Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 8.13, 8.14, and 8.15 shall survive the termination, cancellation or expiration of this Agreement.

8.14 Governing Law. The obligations of each Party under this Agreement shall in all respects, including all matters of construction, validity and performance, be governed by and construed in accordance with the laws of the State of Washington

(without reference to any rules governing conflict of laws), except to the extent such laws may be preempted by the laws of the United States of America.

8.15 Judgments and Determinations. When it is provided in section 5 that either Party shall determine or make a determination or judgment, or that any action, determination or judgment shall be in such Party's determination or judgment, the exercise of such determination or judgment shall be made solely by such Party and shall be final and not subject to challenge, so long as such Party exercises its determination or judgment (i) in good faith and not arbitrarily or capriciously and (ii) consistent with Prudent Utility Practice.

**THE CITY OF SEATTLE,
CITY LIGHT DEPARTMENT**

PUGET SOUND ENERGY, INC.

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Signature Date _____

Signature Date _____



Exhibit A

**SPU Water Treatment Facility Electrical Service
Diagram**



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Alex Chen/233-1522	Karen Grove/684-5805

Legislation Title: AN ORDINANCE relating to the South Fork Tolt Hydroelectric Project; authorizing an installation, maintenance and operation agreement for certain distribution facilities; a distribution interconnection agreement; a long-term retail electric service agreement; and other necessary or convenient agreements; all for the provision of reliable long-term retail electric service to the water storage, diversion, conveyance, and water treatment facilities associated with the South Fork of the Tolt River; and ratifying and confirming prior acts.

Summary of the Legislation: The proposed ordinance would authorize Seattle Public Utilities and Seattle City Light to execute three agreements regarding provision of retail electric service to SPU's water treatment facilities on the South Fork of the Tolt River. The agreements are: 1) the South Fork Tolt Facilities Retail Electric Service Agreement; 2) the South Fork Tolt Installation, Operation and Maintenance Agreement; 3) a distribution interconnection agreement; and other agreements necessary or convenient to facilitate delivery of reliable electric service to SPU's water facilities.

Background: SPU has operated water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River since the early 1960's. Tolt River water comprises approximately one-third of Seattle's water supply and significantly improves service reliability. SPU's Tolt watershed facilities are in Puget Sound Energy's retail service area and PSE provided them electricity until 1996, when City Light began operating a new hydroelectric project on the river. Those facilities include electric distribution lines between the City Light's hydroelectric project and SPU's treatment facility. Since 1996, City Light has been providing electricity on PSE's behalf to the Tolt Treatment Facility. Power that is excess to the treatment plant's needs flows into PSE's electrical grid. PSE provides City Light replacement power under a transmission agreement between two utilities.

A major winter storm in 2006 caused an extended electric service outage due in part to the failure of a City Light transformer. Shortly thereafter, SPU asked City Light and PSE about capital improvements to increase service reliability to the Tolt Treatment Plant. The parties have agreed this would be accomplished, in part, by installing a new 13.8/12.47 kV transformer owned by PSE but located at City Light's switchyard. City Light would install, operate and maintain the transformer and related equipment, with PSE reimbursing City Light for those costs.

The proposed agreements would clarify the ownership and maintenance responsibilities for these facilities. In return for PSE making this investment in power reliability, SPU has agreed to continue purchasing electricity from PSE for 25 years.

While these agreements have fiscal implications for City Light, they do not increase budgetary

requirements of either SPU or City Light. City Light would benefit from being able to more readily recover its costs associated with maintenance of distribution facilities that support PSE's electric service customer (i.e., SPU) at South Fork Tolt.

- Please check one of the following:

 This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

 X **This legislation has financial implications.**

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2010 Appropriation	2011 Anticipated Appropriation
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Notes: No additional appropriations are required in 2010 for City Light or SPU related to these agreements. The transformer acquisition (\$142,000) was funded from City Light's 2009 capital program. Projected 2010 expenditures for construction and installation of the transformer (\$102,000) are already embedded in City Light's current budget and work plan and the utility is not seeking incremental appropriation for 2010. City Light will be reimbursed by PSE in 2010 for the full cost of the transformer acquisition and installation.

City Light's total projected wholesale power sale revenues (\$40,000) are incorporated in current wholesale revenue projections. The proposed agreements provide a means for PSE to reimburse City Light for work done on PSE's behalf, which reimbursements are expected to exactly offset City Light's related operation expenses on an annual basis through the next 25 years.

Projected ongoing operations and maintenance expenses (\$1,000 annually) will be incorporated in City Light's 2011 budget proposal to be submitted to City Council in late 2010. Likewise, ongoing power sales revenues (projected at \$100,000 annually beginning in 2011) will be incorporated in City Light's 2011 wholesale power sales revenue projections.

Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2010 Revenue	2011 Revenue
TOTAL				

Notes:

See note under Appropriations.



Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2010 Positions	2010 FTE	2011 Positions*	2011 FTE*
TOTAL							

* 2010 positions and FTE are total 2010 position changes resulting from this legislation, not incremental changes. Therefore, under 2010, please be sure to include any continuing positions from 2009.

Notes: Not applicable.

- **Do positions sunset in the future?** (If yes, identify sunset date): Not applicable.

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2010 Expenditures	2011 Anticipated Expenditures
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes: Not applicable.

- **What is the financial cost of not implementing the legislation?** Not implementing this legislation would reduce electrical service reliability at the Tolt Water Treatment Facility. Reduced electrical reliability will increase the cost of operating the facility by requiring more frequent operation of the backup diesel generators. Furthermore, since the backup generators are not rated for continuous duty, backup generator reliability could itself be negatively impacted. Without electrical or backup generator power, the facility would not be able to serve its mission of supplying drinking water to approximately one-third of the City's and wholesale customers.
- **Does this legislation affect any departments besides the originating department?**
This legislation affects SPU and City Light only.
- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** The major other alternative would be to have City Light become the electrical service provider to the water treatment facility. City Light investigated this alternative and concluded it would be more expensive than pursuing the course authorized in this legislation, due primarily to the need for City Light to replicate PSE's current ability to backfeed power from the power grid to the water treatment facility.

- **Is the legislation subject to public hearing requirements:** No.
- **Other Issues** (*including long-term implications of the legislation*): None.
- **List attachments to the fiscal note below:** None.



City of Seattle
Office of the Mayor

September 7, 2010

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that would authorize Seattle Public Utilities and Seattle City Light to execute several agreements that will improve electric service reliability to the City of Seattle's Tolt Water Treatment Plant.

Seattle Public Utilities has operated water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River as a customer of Puget Sound Energy (PSE) since the early 1960s. Electricity is supplied to the Tolt Water Treatment Plant by Seattle City Light on behalf of PSE, which later returns the energy to City Light. This arrangement, in place since 1996, exists because the treatment facility is in PSE's service area. An extended storm outage in 2006 highlighted the need to improve the reliability of electric service to this critical source of municipal water supply. As a result, Seattle Public Utilities, City Light and PSE have agreed to work together to upgrade the distribution facilities and clarify operating responsibilities in order to improve electric service reliability and either clarify the energy exchange arrangements or change it to a sale of energy. The proposed agreements will provide for such electric service enhancements, as well as create a mechanism for City Light to recover related costs.

Thank you for your consideration of this legislation. Should you have questions, please contact Alex Chen at 233-1522.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



STATE OF WASHINGTON – KING COUNTY

--SS.

266685
CITY OF SEATTLE, CLERKS OFFICE

No. 123522-525

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT: TITLE ONLY ORDINANCE

was published on

02/02/11


The amount of the fee charged for the foregoing publication is the sum of \$ 81.90, which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on

02/02/11


Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on January 18, 2011, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123522

AN ORDINANCE relating to the South Fork Tolt Hydroelectric Project; authorizing an installation, maintenance and operation agreement for certain distribution facilities; a distribution interconnection agreement; a long-term retail electric service agreement; and other necessary or convenient agreements; all for the provision of reliable long-term retail electric service to the water storage, diversion, conveyance, and water treatment facilities associated with the South Fork of the Tolt River; and ratifying and confirming prior acts.

ORDINANCE NO. 123523

AN ORDINANCE relating to the Seattle Streetcar and authorizing an Interlocal Agreement between the City of Seattle and King County to clarify the duties of local law enforcement agencies with respect to the Streetcar.

ORDINANCE NO. 123524

AN ORDINANCE accepting for general street purposes 18 deeds conveyed to the City of Seattle by the Central Puget Sound Regional Transit Authority ("Sound Transit") in connection with the Central Link Light Rail Transit Project as agreed to in a Property Acquisition and Transfer Procedures Agreement between the City of Seattle and Sound Transit ("Property Transfer Agreement"); laying off, opening, widening, extending, and establishing portions of the rights-of-way located on Martin Luther King Jr. Way South between South Hanford Street and South Charlestown Street; and portions of Meadow Park Addition to Columbia City, Blocks 1 and 2, between South Alaska Street to the north and South Angeline Street to the south; placing the real property conveyed by the 18 deeds under the jurisdiction of the Seattle Department of Transportation; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123525

AN ORDINANCE relating to the King Street Station; authorizing the Director of the Department of Transportation to execute and grant to Puget Sound Energy a non-exclusive perpetual easement over, under, along, across, and through a portion of the property known as the King Street Station located at 303 South Jackson Street.

Date of publication in the Seattle Daily Journal of Commerce, February 2, 2011.

2/2(266685)

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

This South Fork Tolt Distribution Facilities Agreement (the “**Agreement**”), dated as of **June 11, 2010**, is entered into by The City of Seattle (the “**City**”), by and through its City Light Department (“**City Light**”) and Puget Sound Energy (“**PSE**”), a Washington corporation. Each of City Light and PSE may hereinafter be referred to in the singular as “**Party**” and in the plural as “**Parties**”.

WHEREAS, City Light operates a hydroelectric project on the South Fork of the Tolt River that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the “**Power Project**”); and

WHEREAS, PSE provides retail electric service to Seattle Public Utilities, a department of The City of Seattle (“**SPU**”), through a single 13.8/12.47 kV electric service transformer described below at the water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the “**Water Project**”); and

WHEREAS, the Water Project currently receives electric service from PSE through a single 13.8/12.47 kV transformer owned by City Light and located within the Power Project’s switchyard; and

WHEREAS, SPU desires the installation of a new 13.8/12.47 kV electric service transformer to be owned by PSE adjacent to the existing service transformer owned by City Light at or near the Power Project’s switchyard, to serve as the primary electric service transformer to the Water Project; and

WHEREAS, City Light and PSE desire to enter into this Agreement with respect to interconnection of the Parties’ respective electric distribution facilities at the points at or near the Power Project or the Water Project where the electric distribution facilities of PSE and the electric distribution facilities of City Light are interconnected for the purpose of serving PSE’s customer, SPU’s Water Project, during the term of this Agreement.

AGREEMENT

The Parties, therefore, agree as follows:

Section 1. Definitions

Whenever used in this Agreement, the following capitalized terms have the respective meanings set forth below, unless the particular context clearly requires a different meaning.

1.1 “**Agreement**,” “**City**,” “**City Light**,” “**PSE**,” “**Party**,” “**Parties**,” “**Power Project**,” “**SPU**,” and “**Water Project**” have the respective meanings set forth above.

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

1.2 “**City Beneficiary**” has the meaning set forth in section 6.1.

1.3 “**Effective Date**” has the meaning set forth in section 2.1

1.4 “**Electric Disturbance**” means any sudden, unexpected, changed or abnormal electric condition, originating in or transmitted through City Light’s electric distribution facilities (including, without limitation, the Power Project) or PSE’s electric distribution facilities, which causes damage.

1.5 “**Electric Power**” means electric peaking capacity, expressed in kilowatts, or electric energy, expressed in kilowatt-hours, or both.

1.6 “**FERC**” means the Federal Energy Regulatory Commission or its regulatory successors.

1.7 “**First Party**” has the meaning set forth in section 6.3

1.8 “**First Party Beneficiary**” has the meaning set forth in section 6.3

1.9 “**Installation, Operation and Maintenance Agreement**” means the Installation, Operation and Maintenance Agreement, dated **June 11, 2010**, between City Light and PSE.

1.10 “**Point of Facilities Interconnection A**” means the point within the Power Project Powerhouse where the electric distribution facilities of City Light and the electric distribution facilities of PSE are connected at Breaker 13, Main Service Transformer-Bank B in order to provide electric service to the Water Project.

1.11 “**Point of Facilities Interconnection B**” means the point where the electric distribution facilities of City Light and the electric distribution facilities of PSE are connected at Terminal Pole #TR 0/1 in order to provide electric service to the Water Project.

1.12 “**Power Project License**” means the license for the Power Project issued by FERC to the City on March 29, 1984, and any renewal thereof.

1.13 “**Prudent Utility Practice**” means any of the practices, methods and acts which

(a) when engaged in, have previously been engaged in or approved by a significant portion of the electric utility industry, or

(b) in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable law, reliability, safety, efficiency and expedition.

Prudent Utility Practice is not limited to the optimum practice, method or act, but rather is a spectrum of possible practices, methods or acts.

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

1.14 “**PSE Beneficiary**” has the meaning set forth in section 6.2

1.15 “**Second Party**” has the meaning set forth in section 6.3

1.16 “**Willful Action**” means any action taken or not taken by a Party at the direction of its employees having management or administrative responsibility affecting its performance under this Agreement, which action

(a) is knowingly or intentionally taken or not taken with conscious indifference to the harmful consequences thereof or with intent that injury or damage would result or probably result therefrom;

(b) has been determined by final arbitration award or final judicial order to be a material breach or a material default under this Agreement and which occurs or continues beyond the time specified in such award or order for curing such breach or default or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such breach or default; or

(c) is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material breach or material default under this Agreement.

“Willful Action” does not include any act or failure to act by a Party (i) which is merely involuntary, accidental or negligent, (ii) which is permitted to be taken by such Party pursuant to this Agreement or (iii) which such Party has no duty to take or refrain from taking pursuant to this Agreement or otherwise. For purposes of this Agreement, the phrase “employees having management or administrative responsibility” means the employees of a Party who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Party’s performance under this Agreement with responsibility for the results thereof.

1.17 “**WIS Agreement**” has the meaning set forth in section 6.6.

Section 2. Term of Agreement

2.1 This Agreement shall be effective at 2400 hours on the date of execution and delivery of this Agreement by both of the Parties (the “**Effective Date**”).

2.2 This Agreement shall continue in effect until the earliest of:

(a) the termination or cancellation of this Agreement pursuant to its terms;

(b) the termination or cancellation of the operation of the Project, or abandonment of the Project, by the City or by any transferee of the Project License, for any reason whatsoever;

(c) 2400 hours on the twenty-fifth (25th) anniversary of the Effective Date; and

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

- (d) the expiration or termination of the Project License.

Unless this Agreement is earlier terminated or cancelled pursuant to this section 2.2, PSE shall offer to enter into, on the twenty-fifth (25th) anniversary of the Effective Date, a written agreement with the City, containing substantially all of the same terms and conditions as are set forth in this Agreement. PSE shall deliver such offer to the City no later than twelve (12) months prior to the twenty-fifth (25th) anniversary of the Effective Date.

Section 3. Facilities Interconnection. Subject to the other terms and provisions of this Agreement, City Light's electric distribution facilities shall during the term of this Agreement be interconnected with PSE's electric distribution facilities at Point of Facilities Interconnection A and Point of Facilities Interconnection B, and PSE's electric distribution facilities shall during the term of this Agreement be interconnected with City Light's electric distribution facilities at Point of Facilities Interconnection A and Point of Facilities Interconnection B. An electrical system one-line diagram of such points of interconnection is attached as Exhibit A to this Agreement. In the event City Light wishes to alter its electrical distribution facilities at either the Point of Facilities Interconnection A or the Point of Facilities Interconnection B, it may do so only with the written consent of PSE, which consent shall not be unreasonably withheld; provided, however, that PSE's failure to respond within thirty (30) days of notice of City Light's wish to alter its electric distribution facilities shall be deemed to constitute consent under this section 3. In the event of alteration of the electric distribution facilities pursuant to this section 3, the Parties shall cause Exhibit A to be changed accordingly.

Section 4. Metering.

4.1 City Light Metering. City Light shall install and, during the term of this Agreement, operate and maintain, or City Light shall arrange for the installation and, during the term of this Agreement, operation and maintenance of, metering and telemetering equipment at the Point of Facilities Interconnection A. Such metering and telemetering equipment installed at the Point of Facilities Interconnection A is intended to measure the Electric Power delivered by City Light to the Point of Facilities Interconnection A.

4.2 PSE Metering. PSE shall install and, during the term of this Agreement, operate and maintain, or PSE shall arrange for the installation and, during the term of this Agreement, operation and maintenance of, metering and telemetering equipment at the Point of Facilities Interconnection B. Such metering and telemetering equipment installed at Point of Facilities Interconnection B is intended to measure the Electric Power delivered by PSE to the Point of Facilities Interconnection B.

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

Section 5. Disconnection.

5.1 City Light, subject to the terms and conditions of the Installation, Operation and Maintenance Agreement, shall have the right at any time during the term of this Agreement, without incurring any liability to PSE or to any other party therefor, to disconnect the electric distribution facilities of City Light from the electric distribution facilities of PSE, or to interrupt, suspend or curtail transmission of Electric Power (through manual operation, automatic operation or otherwise), if City Light determines (or had determined at any time prior to such disconnection, interruption, suspension or curtailment) in the exercise of its sole discretion that failure to do so:

(a) is likely to endanger any person or property or the operation of City Light's electric distribution facilities or any electric system with which City Light is interconnected; or

(b) is likely to cause or contribute to imminent significant disruption of electric service to City Light's customers; or

(c) is likely to interfere with any construction, installation, operation, use, maintenance, repair, replacement, alteration, modification, improvement, inspection or testing of, or addition to, City Light's electric distribution facilities or other property of City Light at the Power Project and is contrary to Prudent Utility Practice; or

(d) is otherwise contrary to Prudent Utility Practice.

City Light shall use reasonable efforts to give PSE reasonable advance written notice of any such disconnection, interruption, suspension or curtailment. City Light shall promptly notify PSE in writing of the reasons for any such disconnection, interruption, suspension or curtailment. City Light shall use reasonable efforts to mitigate and limit the duration of any such disconnection, interruption, suspension or curtailment. Such disconnection will be at no cost to PSE.

5.2 City Light shall disconnect the electric distribution facilities of City Light from the electric distribution facilities of PSE upon request of PSE. PSE shall use reasonable efforts to give City Light reasonable advance written notice of any such request for disconnection. When City Light performs a disconnection following a request by PSE, City Light shall invoice PSE for the reasonable costs and expenses actually incurred for the disconnection.

Section 6. Limitation of Liability

6.1 PSE hereby releases each of the City, its successors and permitted assigns, and the respective departments (including, without limitation, SPU), elected officials, employees, agents and representatives of the City and its successors and assigns (each, a "**City Beneficiary**") from any and all claims, losses, injuries, harm, liabilities, damages, costs, charges and expenses (including, without limitation, reasonable attorneys' fees)

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

incurred by PSE in connection with performance of this Agreement in accordance with its terms or arising from or in connection with any of the following:

- (a) operation of City Light's electric facilities in parallel with PSE's electric facilities;
- (b) electric disturbance or fluctuation that migrates, directly or indirectly, from City Light's electric facilities to PSE's electric facilities;
- (c) interruption, suspension or reduction of delivery of power from City Light's electric facilities to PSE's electric facilities, regardless of whether such interruption, suspension or reduction is caused or contributed to by PSE's electric facilities or the interconnection of PSE's electric facilities with City Light's electric facilities; or
- (d) disconnection, interruption, suspension or curtailment by City Light pursuant to section 5 of this Agreement

provided, however, that PSE does not so release any City Beneficiary to the extent that any such claim, loss, injury, harm, liability, damage, cost, charge or expense arises or results from or is caused by any Willful Action or the negligence (whether active, passive or imputed) of such City Beneficiary.

6.2 The City hereby releases each of PSE, its successors and assigns, and the respective directors, officers, employees, agents and representatives of PSE and its successors and assigns (each, a "**PSE Beneficiary**") from any and all claims, losses, injuries, harm, liabilities, damages, costs, charges and expenses (including, without limitation, reasonable attorneys' fees) incurred by the City in connection with performance of this Agreement in accordance with its terms or arising from or in connection with any of the following:

- (a) operation of PSE's electric facilities in parallel with City Light's electric facilities;
- (b) electric disturbance or fluctuation that migrates, directly or indirectly, from PSE's electric facilities to City Light's electric facilities; or
- (c) interruption, suspension or reduction of delivery of power from PSE's electric facilities to City Light's electric facilities, regardless of whether such interruption, suspension or reduction is caused or contributed to by City Light's distribution facilities or the interconnection of City Light's electric facilities with PSE's electric facilities;

provided, however, that the City does not so release any PSE Beneficiary to the extent that any such claim, loss, injury, harm, liability, damage, cost, charge or expense arises or results from or is caused by any Willful Action or the negligence (whether active, passive or imputed) of such PSE Beneficiary.

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

6.3 Neither PSE nor the City (either, a “**First Party**”) nor the successors or permitted assigns of the First Party nor the respective directors (if any), elected officials (if any), officers (if any), employees, agents or representatives of the First Party or its successor or assigns shall be liable to the other Party (“**Second Party**”) for any claim, loss, injury, harm or damage to the electric facilities of the Second Party caused by or arising out of any Electric Disturbance that migrates, directly or indirectly, from or through the First Party’s electric facilities to the Second Party’s electric facilities. The Second Party hereby releases the First Party, its successors and assigns, and the respective directors (if any), elected officials (if any), officers (if any), employees, agents and representatives of the First Party and its successors and assigns (each, a “**First Party Beneficiary**”), from any such liability; provided, however, that the Second Party does not so release any of the First Party Beneficiaries to the extent that any such claim, loss, injury, harm, liability, damage, cost, charge or expense arises or results from or is caused by any Willful Action of such First Party Beneficiary.

6.4 Nothing in this Agreement is intended to limit or otherwise affect any release or indemnification by PSE or the City pursuant to any other written agreement among or between the Parties, nor is it intended to affect either Party’s responsibility, if any, for any environmental claims, hazards or liabilities.

6.5 Except as otherwise specifically provided in section 6.1 or 6.2, neither Party shall be liable to the other Party under this Agreement for any loss of profit, revenues or expectancies or for any incidental, indirect, special, exemplary, punitive or consequential damages. This provision shall apply notwithstanding anything to the contrary set forth in this Agreement.

6.6 Each of PSE and the City represents to and covenants with the other that it is as of the date of this Agreement a party to the Agreement Limiting Liability Among Western Interconnected Systems (the “**WIS Agreement**”). To the extent that both of PSE and the City are parties to the WIS Agreement, their relationship and liabilities with respect to system damages shall be governed by the WIS Agreement. If either PSE or the City at any time during the term of this Agreement is not a party to the WIS Agreement, then, notwithstanding, the provisions of the WIS Agreement with respect to system damages shall be and continue in full force and effect as between such Parties. For purposes of this section 6.6, the WIS Agreement is incorporated by this reference in this Agreement.

6.7 The provisions of this section 6 shall apply to the fullest extent permitted by applicable law and notwithstanding the provisions of any other paragraph or section of this Agreement; provided, however, that the benefits of this section 6 shall not extend to either Party to the extent that such Party is prevented by federal, state or local law from complying with any of the provisions of this section 6.

Section 7. Notices. Any notice, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be delivered in person, by first-class U.S. mail (stamped with the required postage) or by telecopy, properly addressed to the intended recipient as follows:

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

If to PSE: Puget Sound Energy, Inc.
355 110 Ave NE, EST-06E
P.O. Box 97034
Bellevue WA 98009-9734
Attention: Manager, Transmission Contracts
Telephone: (425) 462-3579
Facsimile: (425) 462-3049

If to the City: City Light Department
P.O. Box 34023, Suite 3200
Seattle, WA 98124-4023
Attention: Manager, Wholesale Contracts
Telephone: (206) 684-3534
Facsimile: (206) 386-4555

Any such notice, request, authorization, direction or other communication delivered in person or by mail pursuant to this section 7 shall be deemed to be delivered to the recipient Party upon receipt, and any such notice, request, authorization, direction or other communication delivered by telecopy pursuant to this section 7 shall be deemed delivered to the recipient Party upon written confirmation of receipt by such recipient Party delivered in person, by mail or by facsimile pursuant to this section 7. Either Party may change its address specified above by giving the other Party notice of such change in accordance with this section 7.

Section 8. Miscellaneous

8.1 Amendments. This Agreement may be amended or modified only by a written agreement hereafter entered into by the City and PSE.

8.2 Nonwaiver. The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely on any such provision or right in that or any other instance; rather, the same shall be and shall remain in full force and effect. Any waiver at any time by either Party of any of its rights under this Agreement in a particular circumstance or instance shall not constitute a waiver thereof in any other circumstance or instance.

8.3 Entire Agreement; Interpretation of Ambiguities. This Agreement and the Installation, Operation and Maintenance Agreement constitute, on and as of the date hereof, the entire agreement of the Parties with respect to the subject matter hereof and thereof, and all prior agreements, whether written or oral, between the Parties with respect to the subject matter hereof and thereof are hereby superseded in their entireties. Each provision of this Agreement is the product of negotiation between the Parties. Any rule of interpreting ambiguities against the interests of the drafting party shall not be applied in resolving any dispute over the meaning of any provision of this Agreement or the intent of the Parties with respect to such provision.

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

8.4 No Effect on Other Agreements. Nothing in this Agreement shall amend, modify or otherwise affect any of the provisions of the Installation, Operation and Maintenance Agreement.

8.5 Headings. The paragraph and section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any of the terms or provisions of this Agreement.

8.6 Transfer of Interests. Neither Party shall voluntarily sell, assign, encumber, dispose of or otherwise transfer this Agreement or any right, interest or benefit under this Agreement without the prior written consent of the other, which consent shall not be unreasonably denied, delayed or withheld; provided however, that the City hereby consents to any such sale, assignment, encumbrance, disposition or transfer by PSE to (a) a successor in operation of all or substantially all of the properties of PSE or (b) any holder (or the trustee of any holder) of the debt of PSE pursuant to the terms of a mortgage, trust, security agreement, indenture or other instrument of indebtedness to which PSE and such holder (or such trustee) are parties, as security for bonds or other indebtedness of PSE, past or future. Neither the pledge, mortgage or grant of any lien for security by PSE of any of its rights in this Agreement or any right, interest or benefit that PSE may have under this Agreement, nor the execution of a pledge, mortgage, security agreement, indenture or trust deed or a judicial or foreclosure sale made thereunder, shall be deemed a voluntary transfer within the meaning of this section 8.6. No assignment by either Party shall relieve or release it to any extent of any of its obligations hereunder. Subject to the foregoing restrictions, this Agreement shall be fully binding upon, inure to the benefit of and be legally enforceable by the Parties and their respective successors, assigns and legal representatives.

8.7 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

8.8 Implementation. Each Party shall take such action (including, but not limited to, the execution, acknowledgment and delivery of documents) as may reasonably be requested by the other Party for the implementation and continuing performance of this Agreement.

8.9 Relationship of Parties. Nothing contained in this Agreement shall be construed to create an agency, association, joint venture, trust or partnership, or impose an agency, trust or partnership covenant, obligation or liability on or with regard to either of the Parties. Each Party shall be individually responsible for its own covenants, obligations and liabilities under this Agreement. All rights and obligations of the Parties are several, not joint. Neither Party shall be deemed to control, to be under the control of, or to be the agent of, the other Party.

8.10 No Dedication of Facilities. No undertaking by one Party to the other Party under any provision of this Agreement shall constitute the dedication of the electric facilities (or any portion thereof) of the undertaking Party to the public or to such other Party, and it is understood and agreed that any such undertaking under any provision of

SOUTH FORK TOLT DISTRIBUTION FACILITIES AGREEMENT

this Agreement by a Party shall cease upon the termination, cancellation or completion of such Party's obligations under this Agreement.

8.11 No Retail Services. Nothing contained in this Agreement shall grant any rights to, or obligate either Party to provide, any services hereunder directly to or for retail customers of the other Party.

8.12 No Third Party Beneficiaries. Except as expressly provided with respect to any City Beneficiary, any PSE Beneficiary or any First Party Beneficiary in sections 6.1, 6.2 and 6.3, this Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation or undertaking established herein.

8.13 Survival. Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 8.13, 8.14, and 8.15 shall survive the termination, cancellation or expiration of this Agreement.

8.14 Governing Law. The obligations of each Party under this Agreement shall in all respects, including all matters of construction, validity and performance, be governed by and construed in accordance with the laws of the State of Washington (without reference to any rules governing conflict of laws), except to the extent such laws may be preempted by the laws of the United States of America.

8.15 Judgments and Determinations. When it is provided in section 5 that either Party shall determine or make a determination or judgment, or that any action, determination or judgment shall be in such Party's determination or judgment, the exercise of such determination or judgment shall be made solely by such Party and shall be final and not subject to challenge, so long as such Party exercises its determination or judgment (i) in good faith and not arbitrarily or capriciously and (ii) consistent with Prudent Utility Practice.

**THE CITY OF SEATTLE,
CITY LIGHT DEPARTMENT**

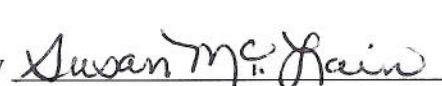
By 

Name Steve Kern

Title PS + EA B.G. Officer

Signature Date 2/14/11

PUGET SOUND ENERGY, INC.

By 

Name Susan McLain

Title Sr. Vice President, Operations

Signature Date 06-10-10

TO 11 10 / EAT 11

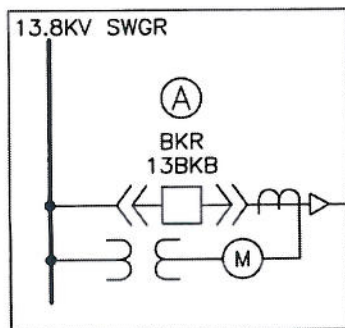
PSE OWNED COMPONENTS OF THE ELECTRIC SERVICE TO SPU WATER TREATMENT FACILITY AT TOLT

- ITEM 1: (1) SET OF (3) #1/0 CU, 15KV, XLPE MCM CABLES & TERMINATIONS
 2: (1) 3,750 KVA 13.8KV/12.47KV XFMR
 3: (1) SET OF (3) #1/0 CU, 15KV, XLPE MCM CABLES & TERMINATIONS
 4: (1) PSE SUPPLIED AND INSTALLED VAULT, PRIMARY METER CABINET & METER.

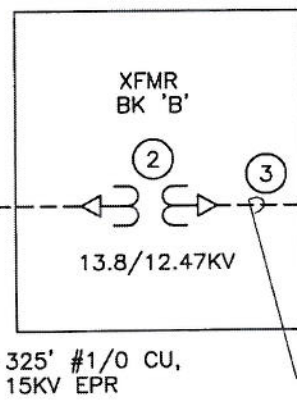
POINTS OF DISTRIBUTION FACILITIES INTERCONNECTION

- (A) BREAKER 13, BANK B
 (B) TERMINAL POLE # TR 0/1

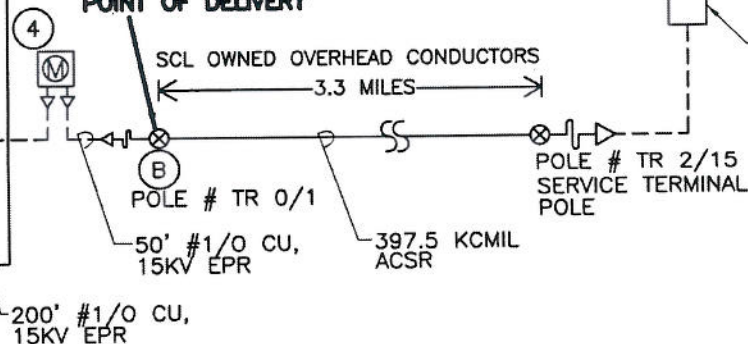
TOLT POWERHOUSE



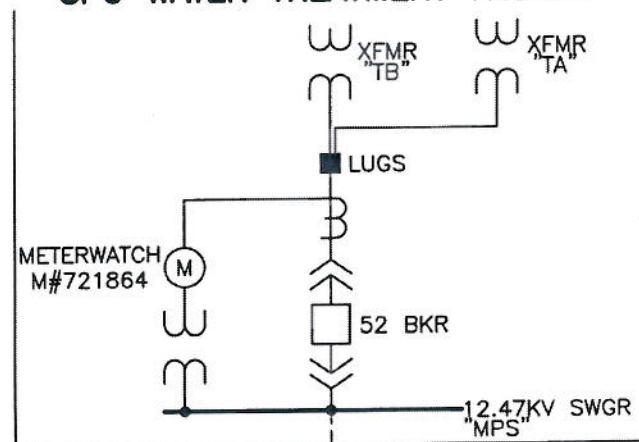
TOLT SWITCHING STATION



PSE SERVICE POINT OF DELIVERY



SPU WATER TREATMENT FACILITY



SPU OWNED UG CABLES
 (1) SET OF (3) 350 MCM, AL SHIELDED, 28KV CABLES.

644-LA-2-332
 PULLING VAULT

SERVICE MOU
 EXHIBIT 'A'

G:\P001\SHARED\VOL_291\Gertin Zhang\Projects\TTH Bank B PSE & SCL Ownership\SPU Water Treatment Facility.dwg
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ONE INCH AT FULL SIZE	
REVISIONS	
REV	DATE
DR	CK
W.O.	APP
DESCRIPTION	
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W.O.	#

Seattle City Light	
SIGNATURE	DATE
DR : G.ZHENG	5/11/2010
CK :	
DSGN :	
CK :	
APP :	

TOLT RIVER - SOUTH FORK
 SPU WATER TREATMENT
 FACILITY
 ELECTRICAL SERVICE DIAGRAM

SHEET	OF
CLASS	E
DRAWING NO.	
SCALE	REV. NO.
NONE	0

Cindy Wright/CMW
SPU Tolt Electric Service Agreements ORD
June 14, 2010
Version #2a

ORDINANCE 123522

AN ORDINANCE relating to the South Fork Tolt Hydroelectric Project; authorizing an installation, maintenance and operation agreement for certain distribution facilities; a distribution interconnection agreement; a long-term retail electric service agreement; and other necessary or convenient agreements; all for the provision of reliable long-term retail electric service to the water storage, diversion, conveyance, and water treatment facilities associated with the South Fork of the Tolt River; and ratifying and confirming prior acts.

WHEREAS, Seattle Public Utilities ("SPU") operates water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the "Water Project"); and

WHEREAS, Seattle City Light ("City Light") operates the South Fork Tolt Hydroelectric Project that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the "Power Project"); and

WHEREAS, Puget Sound Energy ("PSE"), although not directly connected to the Water Project, provides retail electric service to the Water Project through a single 13.8/12.47 kV electric service transformer owned by City Light that is located within the Power Project's switchyard; and

WHEREAS, City Light delivers distribution voltage energy, on behalf of PSE, to the Water Project at a meter in the Power Project's powerhouse, where the total amount of energy is returned by PSE to City Light during the month following the month of energy delivery; and

WHEREAS, a major winter storm in 2006 resulted in an extended electric service outage due, among other things, to the failure of the single electric service transformer in the Power Project's switchyard; and

WHEREAS, SPU has requested that PSE enhance its electric service equipment in order to maintain the Water Project's continuous supply of water for municipal and industrial use in the Seattle Metropolitan area; and



1
2 WHEREAS, PSE, City Light and SPU have agreed to cooperate on the installation of a new
3 13.8/12.47 kV electric service transformer to be owned by PSE adjacent to the existing
4 service transformer owned by City Light at or near the Power Project's switchyard to
serve as the primary electric service transformer to the Water Project; and

5 WHEREAS, PSE desires to utilize the services of City Light and has agreed to fairly compensate
6 City Light for its actual costs of installation, operation and maintenance of the new
7 transformer and related equipment, as well as for the continued maintenance of the
existing electric service transformer, which will serve as an unconnected backup electric
service transformer to the Water Project; and

8 WHEREAS, SPU, City Light and PSE each desire to clarify the ownership and emergency repair
9 of and maintenance responsibilities for the distribution facilities that provide retail
10 electric service to the Water Project; NOW, THEREFORE,

11 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

12
13 Section 1. The Director of Seattle Public Utilities, or his designee, is hereby authorized
14 to execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Retail
15 Electric Service Agreement with PSE, substantially in the form of the agreement attached hereto
16 as Attachment 1. The agreement sets forth the terms under which PSE will provide retail electric
17 service to the Water Project.
18

19 Section 2. The Superintendent of City Light, or his designee, is hereby authorized to
20 execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Installation,
21 Operation and Maintenance Agreement, substantially in the form of the agreement attached
22 hereto as Attachment 2. The agreement sets forth the terms under which City Light will install
23 and maintain, at PSE's expense, the distribution facilities that provide retail electric service to the
24 Water Project.
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1
2 Section 3. The Superintendent of City Light, or his designee, is hereby further authorized
3 to execute for and on behalf of the City of Seattle a distribution interconnection agreement,
4 substantially in the form of the agreement attached hereto as Attachment 3, as well as any other
5 agreements necessary or convenient to facilitate the safe delivery of reliable electric service to the
6 Water Project, while providing fair compensation to City Light for supporting PSE's provision of
7 retail electric service to SPU at this location.
8

9 Section 4. Any act consistent with the authority of this ordinance that is taken prior to its
10 effective date is hereby ratified and confirmed.
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Section 5. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 18th day of January, ~~2010~~^{2011 ens}, and

signed by me in open session in authentication of its passage this

18th day of January, ~~2010~~^{2011 ens}

[Signature]
President Pro Tem of the City Council

Approved by me this 24th day of January, 2010.

[Signature]
Michael McGinn, Mayor

Filed by me this 24th day of January, 2010. 2011 ens

[Signature]
City Clerk

(Seal)

Attachments:

- Attachment 1 – South Fork Tolt Facilities Retail Electric Service Agreement
- Attachment 2 – South Fork Tolt Facilities Installation, Operation and Maintenance Agreement
- Attachment 3 – South Fork Tolt Distribution Facilities Agreement



SOUTH FORK TOLT FACILITIES INSTALLATION, OPERATION AND MAINTENANCE AGREEMENT

This South Fork Tolt Facilities Installation, Operation, and Maintenance Agreement (the “**Agreement**”), dated as of June 11, 2010 is entered into by The City of Seattle, by and through its City Light Department (“**City Light**”) and Puget Sound Energy (“**PSE**”), a Washington corporation. City Light and PSE are individually referred to as “**Party**” or collectively as “**Parties**”.

WHEREAS, City Light operates a hydroelectric project on the South Fork of the Tolt River that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the “**Power Project**”); and

WHEREAS, PSE provides retail electric service to Seattle Public Utilities, a department of The City of Seattle (“**SPU**”), through a single 13.8/12.47 kV electric service transformer described below at the water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the “**Water Project**”); and

WHEREAS, the Water Project currently receives electric service from PSE through a single 13.8/12.47 kV transformer owned by City Light and located within the Power Project’s switchyard; and

WHEREAS, in 2006 SPU experienced an outage due to the failure of the 13.8/12.47 kV service transformer within the Power Project’s switchyard as the result of a major storm; and

WHEREAS, SPU desires to improve its electrical service in order to maintain the Water Project’s continuous supply of water for municipal and industrial use in the Seattle Metropolitan area; and

WHEREAS, SPU desires the installation of a new 13.8/12.47 kV electric service transformer (the “**Main Service Transformer-Bank B**”) to be owned by PSE adjacent to the existing service transformer owned by City Light at or near the Power Project’s switchyard, to serve as the primary electric service transformer to the Water Project; and

WHEREAS, PSE desires to utilize the services of City Light in the installation, operation, and maintenance of the Main Service Transformer-Bank B; and

WHEREAS, PSE desires to utilize the services of City Light in the continued maintenance of the existing service transformer (the “**Backup Service Transformer**”) owned by City Light, which, after the installation of Main Service Transformer-Bank B, will serve as the unconnected backup electric service transformer to the Water Project.

NOW THEREFORE, City Light and PSE agree as follows:

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

SECTION 1. TERM AND TERMINATION

- A. The term of this Agreement shall (1) commence upon execution of this Agreement by both City Light and PSE and (2) terminate at 2400 hours on the twenty-fifth anniversary of the Commercial Operations Date (the “**Term**”), unless sooner terminated pursuant to section 1, paragraph B or paragraph C, below. For purposes of this Agreement, “**Commercial Operation Date**” means the date on which the Main Service Transformer-Bank B is placed into service after trial operation of such transformer has been completed and confirmed in writing to PSE by City Light.
- B. If a Party commits a material breach of or default under this Agreement, then the non-breaching Party may give the breaching Party written notice of the breach or default. Such notice will include a statement of the facts relating to the breach or default and the provisions of this Agreement that are applicable to such breach or default. If the breaching Party fails to cure the specified breach or default within thirty (30) days following receipt of such notice (or such later date as may be specified in such notice or such longer period as is reasonably necessary to effect such cure if such cure cannot be accomplished within such 30-day period), then the Term shall automatically be terminated, and the non-breaching Party shall be entitled to all remedies and damages available to it on account of such breach or default at law and in equity. The non-breaching Party may elect to extend the effective date of such automatic termination of the Term for an additional period of time determined in its discretion if (i) the breaching Party commences, in good faith, the cure of such breach within the thirty-day period following the non-breaching Party's notice; and (ii) the non-breaching Party reasonably determines that the breaching Party is diligently pursuing a cure for such breach.
- C. The Term shall automatically terminate upon occurrence of any of the following: (1) the FERC license for the Power Project terminates or expires without renewal by City Light or (2) SPU ceases to be a retail electric service customer of PSE at the Water Project.
- D. Upon termination of the Term, PSE shall remove the New PSE Facilities, as defined in section 2, paragraph A below, at PSE's expense, unless PSE and City Light mutually agree upon terms for the sale by PSE to City Light of the New PSE Facilities within sixty (60) days of the date of such automatic termination.

SECTION 2. FACILITIES

- A. For purposes of this Agreement, “**New PSE Facilities**” means (1) a set of three #1/0 CU, 15 kV, underground cables in conduit and terminations between the Tolt Powerhouse and Main Service Transformer-Bank B, (2) the 3,750 KVA 13.8 kV/12.47 kV XFMR Main Service Transformer-Bank B, and (3) a set of three #1/0 CU, 15 kV, underground cables in conduit and terminations between Main Service Transformer-Bank B and Terminal Pole # TR 0/1, all as shown and each as defined in Exhibit A, SPU Water Treatment Facility Electrical Service

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

Diagram. Pursuant to section 3, City Light shall design, permit, construct, and install the New PSE Facilities.

- B. For purposes of this Agreement, “**New City Light Facilities**” means a new concrete pad for the Backup Service Transformer, as shown in Exhibit B-1, Partial View Extracted from Exhibit B. The Backup Service Transformer shall remain the property of City Light at all times.
- C. The New PSE Facilities and the New City Light Facilities are referred to together in this Agreement as the “**New Facilities**.” For purposes of this Agreement, “**Plans**” means the following drawings, all as may be modified by the mutual agreement of the respective project managers of the Parties from time to time:
 - (1) SPU Water Treatment Facility Electrical Service Diagram (Exhibit A); and
 - (2) City Light Powerhouse Switchyard Electrical Plan and Sections—D-32392 (Exhibit B).
 - (3) Partial View Extracted from Exhibit B (Exhibit B-1)

The New Facilities and the location or route for the cables and transformer are depicted in the Plans.

- D. Following City Light’s design, purchase, permitting, construction, and installation of the New Facilities in accordance with section 3 below, ownership of the New PSE Facilities shall pass from City Light to PSE when PSE has fully paid for such design, permitting, purchase, construction and installation of the New PSE Facilities. Ownership of the New PSE Facilities shall pass free and clear of all liens, and the New PSE Facilities shall thereafter remain the property of PSE at all times. The New City Light Facilities shall become and remain the property of City Light at all times.
- E. PSE’s point of delivery of retail electric service for the Water Project shall be at Terminal Pole #TR 0/1 (the “**Point of Delivery**”).

SECTION 3. DESIGN, CONSTRUCTION, AND INSTALLATION

- A. Subject to the other provisions of this Agreement, City Light shall design, permit, purchase, construct and install the New Facilities in accordance with the Plans. Notwithstanding the foregoing and any other provision of this Agreement to the contrary, during construction and installation of the Facilities, City Light shall have the right to make modifications to the New Facilities, with or without any modification of the Plans or review by PSE, to the extent necessary to address emergency conditions, events or circumstances; provided that, as soon as is practicable, City Light shall provide to PSE a reasonably detailed description of the modifications made and of such emergency conditions, events or circumstances.

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

- B. If permits or authorizations are necessary for the construction and installation of the New Facilities, City Light shall apply for such permits and authorizations.
- C. Promptly after completion of construction and installation of the New Facilities, City Light shall deliver to PSE final electrical and civil drawings with sufficient detail to provide PSE with a clear understanding of the New Facilities, as constructed or modified.
- D. City Light shall use commercially reasonable efforts to complete the work necessary to construct and install the New Facilities so that the Commercial Operation Date occurs on or before June 30, 2010.
- E. City Light shall notify PSE in writing of the intended Commercial Operation Date at least fourteen (14) calendar days prior thereto.

SECTION 4. OPERATIONS AND MAINTENANCE

- A. City Light shall, during the Term and consistent with this Agreement and Prudent Utility Practice, operate the New PSE Facilities and when requested by PSE, City Light shall repair the New PSE Facilities from time to time, consistent with this Agreement and Prudent Utility Practice. City Light shall also inspect and maintain the New PSE Facilities as requested by PSE from time to time, consistent with this Agreement and Prudent Utility Practice, with respect to the following items: (1) perform analysis of dissolved gas in the main tank, including comparison of results with previous and factory results; (2) perform infrared scan of tank walls and interconnecting lines, including comparison of results with previous infrared scan results; (3) physically examine the transformer main tank oil, including comparison of results with previous and factory results; and (4) other tests or procedures as mutually agreed. For purposes of this Agreement, **"Prudent Utility Practice"** means
 - (i) any of the practices, methods and acts that when engaged in, have previously been engaged in or approved by a significant portion of the electric utility industry; or
 - (ii) in the absence of the practices, methods and acts referred to in the immediately preceding clause (i), any of the practices, methods and acts that in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable law, reliability, safety, efficiency and expedition.

Prudent Utility Practice is not limited to the optimum practice, method or act, but rather is a spectrum of possible practices, methods or acts.

- B. Notwithstanding the foregoing and any other provision of this Agreement to the contrary, during the operation, inspection, maintenance and repair of the New Facilities, City Light shall have the right to make modifications to the New

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

Facilities, with or without any modification of the Plans or review by PSE, to the extent necessary to address emergency conditions, events or circumstances; provided that, as soon as is practicable, City Light shall provide to PSE a reasonably detailed description of the modifications made and of such emergency conditions, events or circumstances.

- C. In the event that either Party determines, or is notified of, an electrical service outage at the Water Project, such Party shall immediately notify the other Party of the outage, and each Party shall coordinate its efforts to restore electrical service in a timely manner. Appropriate contacts for each Party and SPU are included in Exhibit C, Contact List for City Light, PSE and SPU. The contacts may be updated from time to time.
- D. City Light shall give PSE at least two weeks' advance written notice (by facsimile or otherwise in accordance with section 8, paragraph B below) of planned maintenance and repairs that will result in an outage to the New Facilities or to SPU; provided that, if it is not practicable under the circumstances for City Light to give two weeks' advance written notice, City Light shall give notice as much advance notice within two weeks prior to such maintenance and repairs as is reasonably practicable.
- E. PSE shall be responsible for all future costs associated with capital upgrades to the New PSE Facilities that may be mutually agreed upon between the Parties from time to time.
- F. City Light shall continue to own, operate, inspect, maintain and repair the Power Project, including the electric transmission and distribution lines associated with the Power Project and electric service to the Water Project, with the exception of the facilities identified as items 1, 2, and 3 in Exhibit A, which PSE shall own and City Light shall operate, inspect, maintain and repair pursuant to this Agreement.
- G. PSE may inspect the New PSE Facilities with prior request to and coordination with City Light. In the event of an outage, a power shortage, or an adverse condition or disturbance, PSE may coordinate with City Light on emergency actions that may include, but not be limited to, reduction or interruption of the supply of electricity to the point of delivery to compensate for an emergency condition or to temporarily bypass the New PSE Facilities. Any work to be performed within the City Light switchyard and powerhouse will be conducted by City Light.
- H. In the event that no generation is available from the Power Project to supply the electric load of the Water Project and the Main Service Transformer-Bank B or Backup Service Transformer are in service, PSE shall provide electrical service to the Water Project from PSE's Stillwater Substation through the Power Project's switchyard, provided that all necessary electrical components in the switchyard and the powerhouse (e.g., metering, system protection, and communication) are operational, or as otherwise agreed between PSE and City Light.

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

- I. City Light shall comply with the substantive requirements of all applicable federal, state and local environmental laws in the performance of its obligations hereunder, including but not limited to federal, state and local environmental laws and regulations applicable to the containment and disposal of hazardous substances. City Light hereby represents to PSE, to the best of City Light's knowledge, information and belief, that as of the date of execution: (a) the real property, buildings, structures and other improvements that constitute the Power Project's switchyard (the "Premises") are not in violation of any environmental law; (b) no hazardous substances are located on or have been handled, generated, stored, processed or disposed of on or released or discharged from the Premises (including underground contamination) except for those substances used in the ordinary course of business and in compliance with all applicable environmental laws; and (c) the Premises are not subject to any private or governmental lien or judicial or administrative notice or action relating to hazardous substances.

SECTION 5. BILLING AND PAYMENT

- A. Not later than thirty (30) days after the Agreement is executed by City Light and PSE, City Light shall mail to PSE a statement showing the computation in reasonable detail of the amount due City Light for the purchase and delivery of the Main Service Transformer-Bank B. Within thirty (30) days following receipt of any such statement, PSE shall pay to City Light the amount set forth in such statement, subject to the provisions in paragraph B below.
- B. City Light shall invoice PSE for the reasonable costs and expenses actually incurred by City Light in the design, purchase, permitting, installation, operation, inspection, maintenance and repair of the New Facilities. Actual costs and expenses for both emergency and non-emergency work shall reflect reasonable time and materials spent on engineering design and review, on-site inspection of the New Facilities and any necessary work required on existing City Light Facilities to accommodate the New Facilities. Such costs shall be billed at City Light's standard time and materials fees.
- (1) In the case of non-emergency work performed at PSE's request, City Light shall provide PSE with a good-faith estimate of the proposed work prior to the commencement of work. Any City Light estimates for such work shall include the most current version of City Light's standard time and materials fees. PSE will review such estimates and shall, within a commercially reasonable time, provide City Light with authorization to commence the work.
- (2) In the case of emergency work, City Light may immediately commence such work as it deems necessary, but shall provide notice of emergency work performed as soon as reasonably practicable after the commencement of such work.

**SOUTH FORK TOLT FACILITIES INSTALLATION,
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- C. PSE shall pay all amounts invoiced for non-emergency work and emergency work within thirty (30) days of its receipt of such invoice. If PSE determines, in its reasonable discretion, that any amounts invoiced are not reasonable for the work performed, PSE may withhold such disputed amounts and shall promptly submit them for resolution in accordance with the dispute resolution procedure set forth in section 6 below, provided that PSE timely pays all undisputed amounts. PSE shall promptly pay any amounts determined through the dispute resolution procedures to be owed by PSE.
- D. Should PSE fail to timely pay any bill (excluding any such amounts submitted for dispute resolution in accordance with paragraph B above), interest on such bills shall accrue at a rate of 1% per month (unless a lower rate is prescribed by law or applicable regulation, in which event at the highest rate allowed by such law or regulation).
- E. City Light statements shall be mailed to:
- Puget Sound Energy, Inc.
Attn: Major Accounts Department
10885 NE 4th Street
M/S PSE-11N
Bellevue, WA 98004-5591
Telephone: (425) 456-2298
Cell: (206) 604-5836
Facsimile: (425) 462-3496
Email: john.campion@pse.com
- F. The cost and payment provisions in this Agreement represent an agreement between City Light and PSE and have no impact on the provision of service to SPU. City Light acknowledges that PSE will pass through costs it incurs to SPU in accordance with applicable tariffs.

SECTION 6. DISPUTE RESOLUTION

- A. Any cause of action, claim or dispute that either Party may have against the other Party arising out of or relating to this Agreement, including the interpretation of the terms of this Agreement or any applicable law affecting this Agreement, the transactions contemplated hereunder, or a breach, termination or validity thereof ("Dispute") shall be settled in accordance with the procedures described in this section 6.
- B. The Parties shall attempt in good faith to resolve any Dispute promptly by discussions between representatives of each Party who have authority to settle the Dispute. Either Party may give to the other Party notice (a "Dispute Notice") of any Dispute not resolved in the normal course of business. Within five (5) days after delivery of such notice, the representatives shall agree upon a mutually acceptable time and place to meet and shall meet at the time and place agreed, and

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute. The first such meeting shall take place within thirty (30) days of the Dispute Notice. If a Party intends to be accompanied at any meeting by an attorney, the other Party shall be given at least three business days' notice of that intention and may also be accompanied by an attorney. All discussions pursuant to this section 6 shall be treated as compromise and settlement negotiations for the purposes of applicable rules of evidence and procedure.

- C. If the Parties are unable to resolve the Dispute within thirty (30) days of the first meeting (or such longer period to which the Parties both agree), either Party may require the other to submit to non-binding mediation with the assistance of a neutral, unaffiliated mediator. The mediator shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the mediator (except as a prior mediator).
- D. If the Parties are unable to resolve the Dispute through the foregoing non-binding procedures, each Party shall have the full right to seek resolution of the Dispute through legal action. Any lawsuit relating to a Dispute arising out of or relating to this Agreement that is not resolved by the non-binding procedures provided above must be brought in a state or federal court located in King County, Washington.
- E. Notwithstanding the Dispute resolution provisions of this section 6, either Party may bring an action in a court of competent jurisdiction in an effort to enforce the provisions of this section 6 and to seek injunctive relief to protect the Party's rights pending resolution of a Dispute pursuant to this section 6.
- F. Each Party shall be responsible for its own costs incurred during the foregoing non-binding procedures and for one half the cost of the single mediator jointly chosen by the Parties.

SECTION 7. LIMITATION OF LIABILITY

THE OBLIGATIONS EXPRESSLY UNDERTAKEN BY EACH PARTY IN THIS AGREEMENT ARE IN LIEU OF, AND EACH PARTY HEREBY DISCLAIMS, ALL REPRESENTATIONS (OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT) AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, SUITABILITY, DURABILITY, CONDITION, QUALITY OF PROJECT MATERIALS AND EQUIPMENT AND FITNESS FOR A PARTICULAR PURPOSE. EACH PARTY SPECIFICALLY WAIVES ALL RIGHT TO MAKE ANY CLAIM AGAINST THE OTHER PARTY FOR BREACH OF ANY WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF THE PROJECT ENGINEERING, MATERIALS OR EQUIPMENT.

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

SECTION 8. MISCELLANEOUS

- A. Neither Party shall voluntarily sell, assign, encumber, dispose of or otherwise transfer this Agreement or any right, interest or benefit under this Agreement without the prior written consent of the other, which consent shall not be unreasonably denied, delayed or withheld; provided however, that City Light hereby consents to any such sale, assignment, encumbrance, disposition or transfer by PSE to (a) a successor in operation of all or substantially all of the properties of PSE or (b) any holder (or the trustee of any holder) of the debt of PSE pursuant to the terms of a mortgage, trust, security agreement, indenture or other instrument of indebtedness to which PSE and such holder (or such trustee) are parties, as security for bonds or other indebtedness of PSE, past or future. Neither the pledge, mortgage or grant of any lien for security by PSE of any of its rights in this Agreement or any right, interest or benefit that PSE may have under this Agreement, nor the execution of a pledge, mortgage, security agreement, indenture or trust deed or a judicial or foreclosure sale made thereunder, shall be deemed a voluntary transfer within the meaning of this section 8, paragraph A. No assignment by either Party shall relieve or release it to any extent of any of its obligations hereunder. Subject to the foregoing restrictions, this Agreement shall be fully binding upon, inure to the benefit of and be legally enforceable by the Parties and their respective successors, assigns and legal representatives.
- B. Unless otherwise provided elsewhere in this Agreement, any notice or other communication related to this Agreement, shall be in writing and shall be deemed to have been received if delivered in person, First Class United States Postal Service mail, by facsimile or sent by acknowledged delivery to the following addresses, as may be amended by the Parties by providing notice of such updated addresses in accordance with this paragraph B:

If to PSE:

Puget Sound Energy, Inc.
355 110 Ave. NE, EST-06E
P.O. Box 97034
Bellevue WA 98009-9734
Attention: Manager, Transmission
Contracts
Telephone: (425) 462-3579
Facsimile: (425) 462-3049
Email: john.phillips@pse.com

If to City Light:

Seattle City Light
P.O. Box 34023, Suite 3200
Seattle, WA 98124-4023
Attention: Manager, Wholesale Contracts
Telephone: (206) 684-3534
Facsimile: (206) 386-5555
Email: caroline.dethloff@seattle.gov

- C. This Agreement shall be governed by the laws of the state of Washington without reference to its choice of law principles to the contrary.
- D. This Agreement may be amended or modified only by a writing signed by both Parties.

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

- E. Any failure or delay in the exercise of any right or remedy available to a Party hereunder shall not be construed as a waiver or relinquishment of such right or remedy.
- F. Any rule or principle of contractual construction that would otherwise require any aspect of this Agreement to be interpreted against the Party primarily responsible for its drafting will not be employed in the interpretation of this Agreement.
- G. This Agreement and the South Fork Tolt Distribution Facilities Agreement constitute, on and as of the date hereof, the entire agreement of the Parties with respect to the subject matter hereof and thereof and supersedes any and all prior and contemporaneous agreements and understandings, written or oral, of the Parties regarding the subject matter hereof. PSE and the City of Seattle, by and through its Seattle Public Utilities Department, have entered into a separate agreement regarding retail electric services relating to the Water Project. Nothing in this Agreement is intended to limit or otherwise affect the rights, duties or obligations of SPU and PSE set forth in that certain South Fork Tolt Facilities Retail Electric Service Agreement dated 6/11, 2010 between SPU and PSE.

**THE CITY OF SEATTLE,
CITY LIGHT DEPARTMENT**

By Steve Kern
Name [Signature]
Title PS&EA Bll. Officer
Signature Date 2/14/11

PUGET SOUND ENERGY, INC.

By Susan McLean
Name Susan McLean
Title Sr. Vice President, Operations
Signature Date 06-10-10

Exhibit A

SPU Water Treatment Facility Electrical Service Diagram

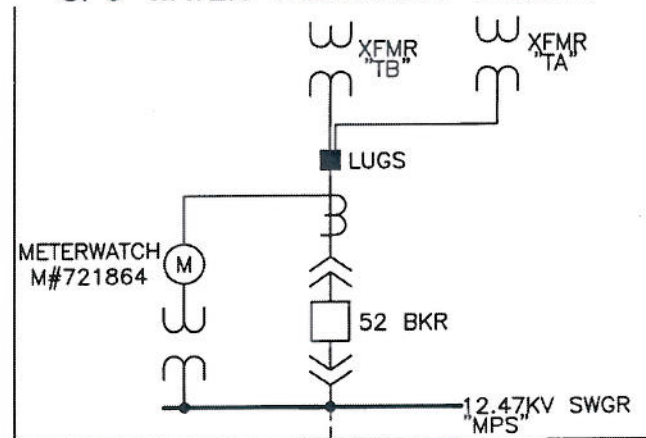
PSE OWNED COMPONENTS OF THE ELECTRIC SERVICE TO SPU WATER TREATMENT FACILITY AT TOLT

- ITEM 1: (1) SET OF (3) #1/0 CU, 15KV, XLPE MCM CABLES & TERMINATIONS
 2: (1) 3,750 KVA 13.8KV/12.47KV XFMR
 3: (1) SET OF (3) #1/0 CU, 15KV, XLPE MCM CABLES & TERMINATIONS
 4: (1) PSE SUPPLIED AND INSTALLED VAULT, PRIMARY METER CABINET & METER.

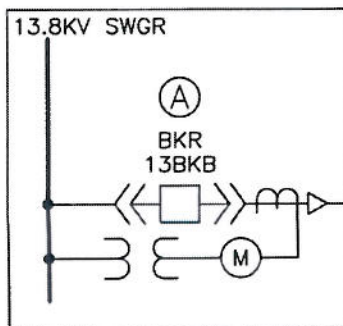
POINTS OF DISTRIBUTION FACILITIES INTERCONNECTION

- (A) BREAKER 13, BANK B
 (B) TERMINAL POLE # TR 0/1

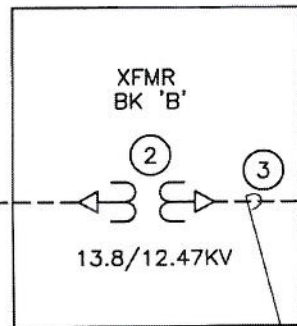
SPU WATER TREATMENT FACILITY



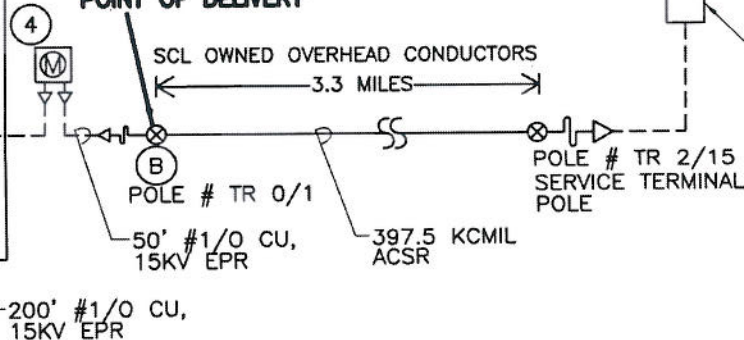
TOLT POWERHOUSE



TOLT SWITCHING STATION



PSE SERVICE POINT OF DELIVERY



SERVICE 'MOU' EXHIBIT 'A'

Q:\POOL\SHARED\G01_201\Griffin_Zhang\Projects\TPH Bank B PSE & SCL Ownership\SPU Water Treatment Facility.dwg
 admsar Jun/01/2010 2:45pm

ONE INCH AT FULL SIZE	
REVISIONS	
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DR	CK
W.O.	APP
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Seattle City Light

SIGNATURE DATE
 DR : G.ZHENG 5/11/2010
 CK :
 DSGN :
 CK :
 APP :

TOLT RIVER - SOUTH FORK

SPU WATER TREATMENT
 FACILITY
 ELECTRICAL SERVICE DIAGRAM

SHEET OF
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DRAWING NO.

SCALE
 NONE

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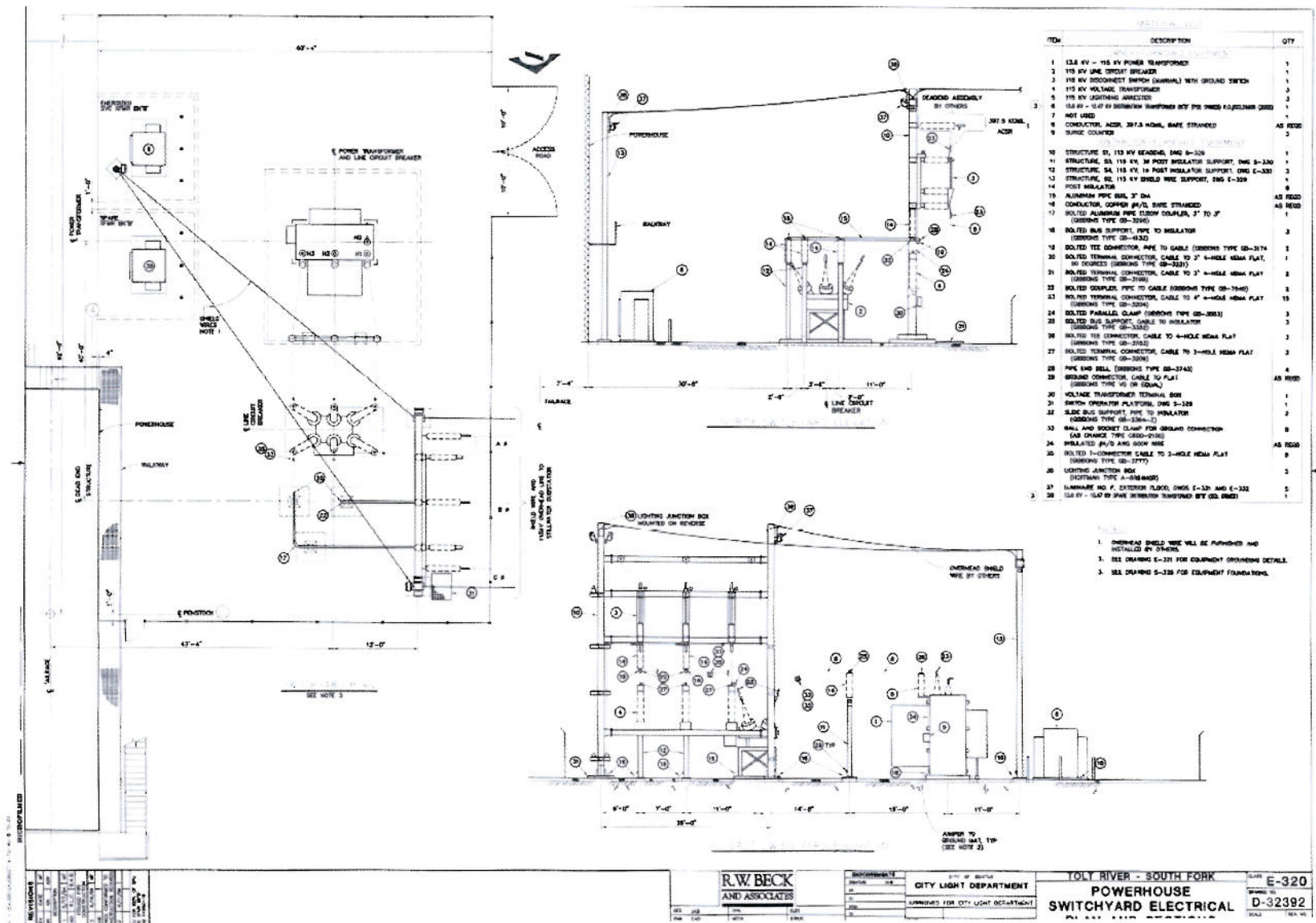
**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

Exhibits B and B-1

**Exhibit B: City Light Powerhouse Switchyard Electrical
Plan and Sections—D-32392**

Exhibit B-1: Partial View Extracted from Exhibit B

SOUTH FORK TOLT FACILITIES INSTALLATION, OPERATION AND MAINTENANCE AGREEMENT



TO 11 11 / EC 11

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

Exhibit C

Contact List for City Light, PSE and SPU

**SOUTH FORK TOLT FACILITIES INSTALLATION,
OPERATION AND MAINTENANCE AGREEMENT**

Contact List for City Light, PSE, and SPU

Seattle City Light

Power Dispatcher	206-706-0204/206-706-0203 (24/7)
Outage Dispatcher	206-706-0244 (7:00 a.m.–3:00 p.m.)
Director, System Operations	206-706-0240 206-706-0144 (fax)
South Fork Tolt Powerhouse Manager	206-386-9741 206-455-1953 (cell)
South Fork Tolt Powerhouse Supervisor	206-615-0842 206-963-0178 (cell)
Account Executive Office Manager	206-684-3294
Power Production Electrical Engineering Manager	206-684-3625 206-491-4595

PSE

Power Dispatcher	425-882-4650 (24/7)
System Manager	1-866-297-7238 (24/7) 1-888-539-4773 (24/7)-backup
Major Accounts Executive	425-456-2298

SPU

Operations Control Center	206-386-1818 (24/7)
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ORDINANCE 123522

AN ORDINANCE relating to the South Fork Tolt Hydroelectric Project; authorizing an installation, maintenance and operation agreement for certain distribution facilities; a distribution interconnection agreement; a long-term retail electric service agreement; and other necessary or convenient agreements; all for the provision of reliable long-term retail electric service to the water storage, diversion, conveyance, and water treatment facilities associated with the South Fork of the Tolt River; and ratifying and confirming prior acts.

WHEREAS, Seattle Public Utilities ("SPU") operates water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the "Water Project"); and

WHEREAS, Seattle City Light ("City Light") operates the South Fork Tolt Hydroelectric Project that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the "Power Project"); and

WHEREAS, Puget Sound Energy ("PSE"), although not directly connected to the Water Project, provides retail electric service to the Water Project through a single 13.8/12.47 kV electric service transformer owned by City Light that is located within the Power Project's switchyard; and

WHEREAS, City Light delivers distribution voltage energy, on behalf of PSE, to the Water Project at a meter in the Power Project's powerhouse, where the total amount of energy is returned by PSE to City Light during the month following the month of energy delivery; and

WHEREAS, a major winter storm in 2006 resulted in an extended electric service outage due, among other things, to the failure of the single electric service transformer in the Power Project's switchyard; and

WHEREAS, SPU has requested that PSE enhance its electric service equipment in order to maintain the Water Project's continuous supply of water for municipal and industrial use in the Seattle Metropolitan area; and



1
2 WHEREAS, PSE, City Light and SPU have agreed to cooperate on the installation of a new
3 13.8/12.47 kV electric service transformer to be owned by PSE adjacent to the existing
4 service transformer owned by City Light at or near the Power Project's switchyard to
serve as the primary electric service transformer to the Water Project; and

5 WHEREAS, PSE desires to utilize the services of City Light and has agreed to fairly compensate
6 City Light for its actual costs of installation, operation and maintenance of the new
7 transformer and related equipment, as well as for the continued maintenance of the
8 existing electric service transformer, which will serve as an unconnected backup electric
service transformer to the Water Project; and

9 WHEREAS, SPU, City Light and PSE each desire to clarify the ownership and emergency repair
10 of and maintenance responsibilities for the distribution facilities that provide retail
electric service to the Water Project; NOW, THEREFORE,

11 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

12
13 Section 1. The Director of Seattle Public Utilities, or his designee, is hereby authorized
14 to execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Retail
15 Electric Service Agreement with PSE, substantially in the form of the agreement attached hereto
16 as Attachment 1. The agreement sets forth the terms under which PSE will provide retail electric
17 service to the Water Project.
18

19 Section 2. The Superintendent of City Light, or his designee, is hereby authorized to
20 execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Installation,
21 Operation and Maintenance Agreement, substantially in the form of the agreement attached
22 hereto as Attachment 2. The agreement sets forth the terms under which City Light will install
23 and maintain, at PSE's expense, the distribution facilities that provide retail electric service to the
24 Water Project.
25
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1
2 Section 3. The Superintendent of City Light, or his designee, is hereby further authorized
3 to execute for and on behalf of the City of Seattle a distribution interconnection agreement,
4 substantially in the form of the agreement attached hereto as Attachment 3, as well as any other
5 agreements necessary or convenient to facilitate the safe delivery of reliable electric service to the
6 Water Project, while providing fair compensation to City Light for supporting PSE's provision of
7 retail electric service to SPU at this location.
8

9 Section 4. Any act consistent with the authority of this ordinance that is taken prior to its
10 effective date is hereby ratified and confirmed.
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Section 5. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 18th day of January, 2011^{ans}, 2010^{ce}, and signed by me in open session in authentication of its passage this

18th day of January, 2011^{ans}, 2010^{ce}

[Signature]
President Pro Temp of the City Council

Approved by me this 24th day of January, 2010.

[Signature]
Michael McGinn, Mayor

Filed by me this 24th day of January, 2010. 2011^{ans}

[Signature]
City Clerk

(Seal)

Attachments:

- Attachment 1 – South Fork Tolt Facilities Retail Electric Service Agreement
- Attachment 2 – South Fork Tolt Facilities Installation, Operation and Maintenance Agreement
- Attachment 3 – South Fork Tolt Distribution Facilities Agreement



SOUTH FORK TOLT FACILITIES RETAIL ELECTRIC SERVICE AGREEMENT

This South Fork Tolt Facilities Retail Electric Service Agreement (the "**Agreement**"), dated as of June 11, 2010 is entered into by The City of Seattle, acting by and through its Seattle Public Utilities Department ("**SPU**") and Puget Sound Energy, Inc. ("**PSE**"), a Washington corporation. SPU and PSE are individually referred to as "**Party**" or collectively as "**Parties**".

WHEREAS, SPU operates water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the "**Water Project**"); and

WHEREAS, The City of Seattle's City Light Department ("**City Light**") operates a hydroelectric project on the South Fork of the Tolt River that includes electric distribution lines (except those lines and transformer owned by PSE) between the hydroelectric project power plant and the Water Project (the "**Power Project**"); and

WHEREAS, PSE provides, and SPU purchases, retail electric service to the Water Project which is delivered through a single 13.8/12.47 kV electric service transformer located within the Power Project's switchyard; and

WHEREAS, SPU represents that the Water Project provides a continuous supply of high quality water for municipal and industrial purposes in the Seattle Metropolitan area; and

WHEREAS, SPU represents that the Water Project depends on its electrical service in order to meet the continuous supply demands of the Seattle Metropolitan area; and

WHEREAS, pursuant to the South Folk Tolt Facilities Installation, Operation and Maintenance Agreement, dated June 11, 2010, by and between City Light and PSE (the "**Installation, Operation and Maintenance Agreement**"), City Light will (i) design, purchase, permit, construct and install a new 13.8/12.47 kV electric service transformer adjacent to the existing service transformer at or near the Power Project's switchyard (the "**Main Service Transformer-Bank B**") to serve as the primary electric service transformer; (ii) maintain and operate the Main Service Transformer-Bank B; and (iii) maintain and operate the existing service transformer, which, after the installation of Main Service Transformer-Bank B, will serve as the backup electric service transformer (the "**Backup Service Transformer**").

NOW THEREFORE, SPU and PSE agree as follows:

SECTION 1. RETAIL ELECTRIC SERVICE

- A. PSE shall provide, and SPU shall purchase, electric service at the Water Project under the rates, terms and conditions of (i) Schedule 31 (Primary General Service) as it may be revised from time to time ("**Schedule 31**"), or any successor or other

**SOUTH FORK TOLT FACILITIES RETAIL
ELECTRIC SERVICE AGREEMENT**

retail rate schedule of general applicability to commercial customers similarly situated to SPU, (ii) Schedule 80 (General Rules and Provisions) as it may be revised from time to time ("**Schedule 80**"), and (iii) this Agreement as it may be revised from time to time. Notwithstanding the foregoing, SPU may elect, at any time, to receive electric service at the Water Project pursuant to any other available PSE rate schedule in accordance with the terms of such rate schedule, including without limitation terms regarding availability, applicability, voltage, or type of customer.

- B. The term of this Agreement shall (i) commence at 0000 hours on the date immediately following the Commercial Operation Date and (ii) terminate at 2400 hours on the twenty-fifth anniversary of the Commercial Operations Date (the "**Term**"), unless sooner terminated pursuant to section 1, paragraph C below. For purposes of this Agreement, "**Commercial Operation Date**" means the date on which the Main Service Transformer-Bank B commences commercial operation after trial operation of such transformer has been completed and confirmed in writing to PSE by City Light.
- C. During the Term, SPU shall take electric service at the Water Project exclusively from PSE; provided, however, that SPU may, in its sole discretion, choose to receive electric service at the Water Project from a provider other than PSE if (1) PSE terminates this Agreement prior to the end of the Term for any reason by providing notice to SPU, (2) PSE fails to cure a breach of the Installation, Operation and Maintenance Agreement within thirty (30) days after PSE's receipt of a notice from City Light of such breach of the Agreement and City Light elects to terminate the Installation, Operation and Maintenance Agreement prior to the end of the Term, (3) PSE elects to terminate the Installation, Operation and Maintenance Agreement prior to the end of the Term, or (4) the Installation, Operation and Maintenance Agreement terminates through its automatic termination provisions.

SECTION 2. METERS AND ACCESS

- A. PSE shall install, provide, maintain and test meters and metering equipment at the retail Point of Delivery.
- B. SPU, subject to the conditions set forth in 2C. below, hereby grants to PSE a right to, at reasonable times mutually agreeable to the Parties, enter the property of SPU for the purpose of reading any and all PSE meters that are installed on such property; provided, however, that such right shall be consistent with and subject to any applicable national security and electrical reliability requirements.
- C. PSE will immediately cease any operation on or around the Power Project which SPU considers detrimental to water quality or water quantity upon notice from SPU. Prior to issuing such notice and subject to limitations imposed by regulatory requirements, SPU shall make a good faith effort to discuss with PSE

**SOUTH FORK TOLT FACILITIES RETAIL
ELECTRIC SERVICE AGREEMENT**

the perceived cause of any water quality or quantity concern and shall attempt to resolve the problem in a mutually agreeable manner.

SECTION 3. EMERGENCY OPERATIONS

In the event of an electrical service outage at the Water Project, SPU shall promptly notify PSE of the outage by telephone call to PSE's outage dispatcher at 866-297-7238 (primary number) or 888-539-4773 (backup number). PSE may change the telephone numbers of its outage dispatcher by giving written notice of such change to SPU.

SECTION 4. MISCELLANEOUS

- A. Neither Party shall voluntarily sell, assign, encumber, dispose of or otherwise transfer this Agreement or any right, interest or benefit under this Agreement without the prior written consent of the other, which consent shall not be unreasonably denied, delayed or withheld; provided however, that SPU hereby consents to any such sale, assignment, encumbrance, disposition or transfer by PSE to (a) a successor in operation of all or substantially all of the properties of PSE or (b) any holder (or the trustee of any holder) of the debt of PSE pursuant to the terms of a mortgage, trust, security agreement, indenture or other instrument of indebtedness to which PSE and such holder (or such trustee) are parties, as security for bonds or other indebtedness of PSE, past or future. Neither the pledge, mortgage or grant of any lien for security by PSE of any of its rights in this Agreement or any right, interest or benefit that PSE may have under this Agreement, nor the execution of a pledge, mortgage, security agreement, indenture or trust deed or a judicial or foreclosure sale made thereunder, shall be deemed a voluntary transfer within the meaning of this section 4, paragraph A. No assignment by either Party shall relieve or release it to any extent of any of its obligations hereunder. Subject to the foregoing restrictions, this Agreement shall be fully binding upon, inure to the benefit of and be legally enforceable by the Parties and their respective successors, assigns and legal representatives.
- B. Unless otherwise provided elsewhere in this Agreement, any notice or other communication related to this Agreement, shall be in writing and shall be deemed to have been received if delivered in person, First Class United States Postal Service mail, by facsimile or sent by acknowledged delivery to the following addresses, as may be amended by the Parties by providing notice of such updated addresses in accordance with this paragraph B:

**SOUTH FORK TOLT FACILITIES RETAIL
ELECTRIC SERVICE AGREEMENT**

If to PSE:

Puget Sound Energy, Inc.
Attn: Major Accounts Department
10885 NE 4th Street
M/S PSE-11N
Bellevue, WA 98004-5591
Telephone: 425-456-2298
Facsimile: 425-462-3496
Email: john.campion@pse.com

If to SPU:

Seattle Public Utilities
Attn: Tolt Water Treatment Facility
Contract Manager
Water Quality Laboratory
800 S. Stacy Street
Seattle, WA 98134
Telephone: 206-233-1522
Facsimile: 206-684-4133
Email: alex.chen@seattle.gov

- C. This Agreement shall be governed by the laws of the state of Washington without reference to its choice of law principles to the contrary.
- D. This Agreement may be amended or modified only by a writing signed by both Parties.
- E. Any failure or delay in the exercise of any right or remedy available to a Party hereunder shall not be construed as a waiver or relinquishment of such right or remedy.
- F. Any rule or principle of contractual construction that would otherwise require any aspect of this Agreement to be interpreted against the Party primarily responsible for its drafting will not be employed in the interpretation of this Agreement.
- G. Neither Party shall be liable for any indirect, incidental, special, exemplary, punitive, or consequential or pure financial damages arising in connection with the Facilities or this Agreement, including without limitation, lost profits, even if such Party has been advised of the possibility of such damages or such damages are otherwise foreseeable.
- H. This Agreement sets forth the entire agreement, and supersedes any and all prior and contemporaneous agreements and understandings, written or oral, of the Parties regarding the subject matter hereof. PSE and the City of Seattle, by and through its Seattle City Light Department, have entered into the separate Installation, Operation and Maintenance Agreement regarding the installation, operations, and maintenance of a transformer that serves the Water Project. Nothing in this Agreement is intended to limit or otherwise affect the rights, duties or obligations of City Light and PSE set forth in the Installation, Operation and Maintenance Agreement.
- I. Schedule 31 and Schedule 80 are incorporated herein by this reference. This Agreement is subject to Schedule 31 and Schedule 80 (and is subject to other schedules of PSE's Electric Tariff G that may apply) as such schedules may be revised from time to time. Any conflict between this Agreement and PSE's Electric Tariff G schedules shall be resolved in favor of PSE's Electric Tariff G schedules.

**SOUTH FORK TOLT FACILITIES RETAIL
ELECTRIC SERVICE AGREEMENT**

- J. Nothing in this Agreement is intended to limit or otherwise affect any of the provisions of any applicable schedule of PSE's Electric Tariff G or the rules and regulations of the WUTC.

**THE CITY OF SEATTLE,
SEATTLE PUBLIC UTILITIES**

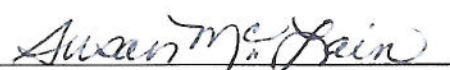
By 

Name Ray Hoffman

Title Director

Signature Date 3/15/11

PUGET SOUND ENERGY, INC.

By 

Name Susan McLain

Title Senior Vice President, Operations

Signature Date 06-10-10

Cindy Wright/CMW
SPU Tolt Electric Service Agreements ORD
June 14, 2010
Version #2a

ORDINANCE 123522

AN ORDINANCE relating to the South Fork Tolt Hydroelectric Project; authorizing an installation, maintenance and operation agreement for certain distribution facilities; a distribution interconnection agreement; a long-term retail electric service agreement; and other necessary or convenient agreements; all for the provision of reliable long-term retail electric service to the water storage, diversion, conveyance, and water treatment facilities associated with the South Fork of the Tolt River; and ratifying and confirming prior acts.

WHEREAS, Seattle Public Utilities ("SPU") operates water storage, diversion, conveyance, and water treatment facilities on the South Fork of the Tolt River (the "Water Project"); and

WHEREAS, Seattle City Light ("City Light") operates the South Fork Tolt Hydroelectric Project that includes electric distribution lines between the hydroelectric project power plant and the Water Project (the "Power Project"); and

WHEREAS, Puget Sound Energy ("PSE"), although not directly connected to the Water Project, provides retail electric service to the Water Project through a single 13.8/12.47 kV electric service transformer owned by City Light that is located within the Power Project's switchyard; and

WHEREAS, City Light delivers distribution voltage energy, on behalf of PSE, to the Water Project at a meter in the Power Project's powerhouse, where the total amount of energy is returned by PSE to City Light during the month following the month of energy delivery; and

WHEREAS, a major winter storm in 2006 resulted in an extended electric service outage due, among other things, to the failure of the single electric service transformer in the Power Project's switchyard; and

WHEREAS, SPU has requested that PSE enhance its electric service equipment in order to maintain the Water Project's continuous supply of water for municipal and industrial use in the Seattle Metropolitan area; and



1
2 WHEREAS, PSE, City Light and SPU have agreed to cooperate on the installation of a new
3 13.8/12.47 kV electric service transformer to be owned by PSE adjacent to the existing
4 service transformer owned by City Light at or near the Power Project's switchyard to
serve as the primary electric service transformer to the Water Project; and

5 WHEREAS, PSE desires to utilize the services of City Light and has agreed to fairly compensate
6 City Light for its actual costs of installation, operation and maintenance of the new
7 transformer and related equipment, as well as for the continued maintenance of the
8 existing electric service transformer, which will serve as an unconnected backup electric
service transformer to the Water Project; and

9 WHEREAS, SPU, City Light and PSE each desire to clarify the ownership and emergency repair
10 of and maintenance responsibilities for the distribution facilities that provide retail
electric service to the Water Project; NOW, THEREFORE,

11
12 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

13 Section 1. The Director of Seattle Public Utilities, or his designee, is hereby authorized
14 to execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Retail
15 Electric Service Agreement with PSE, substantially in the form of the agreement attached hereto
16 as Attachment 1. The agreement sets forth the terms under which PSE will provide retail electric
17 service to the Water Project.
18

19 Section 2. The Superintendent of City Light, or his designee, is hereby authorized to
20 execute for and on behalf of the City of Seattle a 25-year South Fork Tolt Facilities Installation,
21 Operation and Maintenance Agreement, substantially in the form of the agreement attached
22 hereto as Attachment 2. The agreement sets forth the terms under which City Light will install
23 and maintain, at PSE's expense, the distribution facilities that provide retail electric service to the
24 Water Project.
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1
2 Section 3. The Superintendent of City Light, or his designee, is hereby further authorized
3 to execute for and on behalf of the City of Seattle a distribution interconnection agreement,
4 substantially in the form of the agreement attached hereto as Attachment 3, as well as any other
5 agreements necessary or convenient to facilitate the safe delivery of reliable electric service to the
6 Water Project, while providing fair compensation to City Light for supporting PSE's provision of
7 retail electric service to SPU at this location.
8

9 Section 4. Any act consistent with the authority of this ordinance that is taken prior to its
10 effective date is hereby ratified and confirmed.
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Section 5. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 18th day of January, ^{2011 ~~ans~~} ~~2010~~, and signed by me in open session in authentication of its passage this 18th day of January, ^{2011 ~~ans~~} ~~2010~~.

[Signature]
President Pro Tem of the City Council

Approved by me this 24th day of January, 2010.

[Signature]
Michael McGinn, Mayor

Filed by me this 24th day of January, 2010. ^{2011 ~~ans~~}

[Signature]
City Clerk

(Seal)

Attachments:

- Attachment 1 – South Fork Tolt Facilities Retail Electric Service Agreement
- Attachment 2 – South Fork Tolt Facilities Installation, Operation and Maintenance Agreement
- Attachment 3 – South Fork Tolt Distribution Facilities Agreement

