

Ordinance No. 68865

AN ORDINANCE granting to Puget Sound Power and Light Company, a corporation, its successors and assigns, the right, privilege and authority to lay down, replace, renew, maintain and operate pipes and conduits in and along certain streets, avenues, alleys and public places in the City of Seattle and by means thereof to transmit, sell and deliver steam for heating purposes and for steam power, and to charge and collect reasonable rates, tolls and compensation therefor, and repealing Ordinances Nos. 7889, 40083, 40699, 14343 and 53874.

REPEALED BY ORDINANCE 57238
ENGROSSED BILL

Council Bill No. 56768

INTRODUCED: NOV. 4, 1935	BY: FRANCHISE
REFERRED: NOV. 4, 1935	TO: FRANCHISE
REFERRED:	
REPORTED: NOV 21 1938	VETO:
SECOND READING: NOV 21 1938	PUBLISHED:
THIRD READING: DEC 12 1938	VETO SUSTAINED:
SIGNED: DEC 12 1938	PASSED OVER VETO:
PRESENTED TO MAYOR: DEC 13 1938	APPROVED: DEC 22 1938
FILED: DEC 22 1938	PUBLISHED: DEC 23 1938
ENGROSSED:	BY: B. D. H. ✓
VOL. 2 PAGE 388	
COMPARED BY:	AND

161487 - acceptance
file 214769 - assignment to Seattle Steam Corp.
REPEALED BY ORDINANCE NO. 816-89

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REPEALED BY ORDINANCE 10216
ENGROSSED BILL

Council Bill No. 56768

INTRODUCED: NOV. 4, 1935	BY: FRANKLIN
REFERRED: NOV. 4, 1935	TO: FRANKLIN
REFERRED:	
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COMPARED BY:	

AND

1671487 - description
Dile 214769 - assignment to Seattle Steam Corp.
REPEALED BY ORDINANCE 10216

ORDINANCE NO. 68865

AN ORDINANCE granting to Puget Sound Power and Light Company, a corporation, its successors and assigns, the right, privilege and authority to lay down, replace, renew, maintain and operate pipes and conduits in and along certain streets, avenues, alleys and public places in The City of Seattle and by means thereof to transmit, sell and deliver steam for heating purposes and for steam power and to charge and collect reasonable rates, tolls and compensation therefor, and repealing Ordinances Nos. 7889, 40083, 16699, 14343 and 53874.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That there be and is hereby granted to Puget Sound Power and Light Company, a corporation, its successors and assigns, herein called "grantee", the right, privilege and authority to lay down, replace, renew, maintain and operate pipes and conduits in and along any and all of the streets, avenues, alleys and other public places within the district in said City of Seattle bounded and described in this section, and by means thereof to transmit, sell and deliver steam for heating purposes and for steam power, said district being bounded and described as follows:

Beginning at the intersection of the west marginal line of Alaskan Way with the north marginal line of Virginia Street produced west and running thence east or easterly on the north marginal line of Virginia Street to the intersection thereof with the east marginal line of 8th Avenue; thence south or southerly along the said east marginal line of 8th Avenue to the intersection thereof with the south marginal line of Madison Street; thence west or westerly along the south marginal line of Madison Street to the intersection thereof with the east marginal line of 5th Avenue; thence south along the east marginal line of 5th Avenue to the north marginal line of Yesler Way; thence east along the north marginal line of Yesler Way to the east marginal line of 6th Avenue South extended north 60 feet across Yesler Way; thence south along the east marginal line of 6th Avenue South extended north 60 feet across Yesler Way and the east marginal line of 6th Avenue South, to the south marginal line of King Street; thence west along the south marginal line of King Street to the west marginal line of South Alaskan Way; thence north along the west marginal line of South Alaskan Way and Alaskan Way to the North marginal line of Virginia Street produced west, being the point of beginning, as streets are now established in The City of Seattle.

Section 2. That such pipes, conduits and appurtenances shall be laid down and maintained in such locations and in such manner as shall be directed by the Board of Public Works, and no construction, reconstruction or repairing shall be done without first obtaining a permit therefor from said board, which permit shall be subject to such inspection cost as is, or may from time to time be, provided by ordinance applicable to all privately owned public utilities, and said grantee, its successors and assigns, shall comply with all the requirements and conditions of such permits and all ordinances of The City of Seattle relating to construction in public places.

That the grantee, its successors and assigns, shall, within a reasonable time after notice from the Board of Public Works so to do, at its or their own cost and expense, move, relocate and change any of its or their pipes, conduits or appurtenances which interfere with the prosecution or maintenance of any public or local improvement, or the construction, reconstruction, replacement, maintenance or operation of any municipally owned public utility or any addition, betterment and extension thereof.

That whenever any excavation shall be made pursuant to the authority hereby granted, the grantee, its successors and assigns, shall as soon as possible cause any such street, alley or public highway so excavated to be restored to good order, condition and repair, and to the satisfaction of the Board of Public Works.

Section 3. That said grantee, its successors and assigns, shall have the right to charge and collect reasonable compensation from all persons and corporations to whom it shall furnish steam for heating. Until such time as the City of Seattle shall engage in the business of furnishing steam heat or until otherwise provided by law of the State, the legislative authority of the City of Seattle shall have jurisdiction

and control over the services of steam heat under this franchise, and all rates and charges therefor to the same extent as the Public Service Commission of the State of Washington now has over the rates, charges and service of utilities which are subject to the jurisdiction of such Commission; provided, that the legislative authority of the City of Seattle shall never prescribe rates other than such as shall be just, reasonable, adequate and sufficient, and that its jurisdiction and control shall at all times be subject to review by the courts.

Section 4. That said grantee, its successors and assigns, agree to pay annually in advance to the City of Seattle, upon bills rendered by the City Engineer, a fee beginning February 1, 1939 in such amount as shall be computed upon the lineal feet of pipe within the City Streets, in accordance with the following schedule of rates:

All pipes under and not exceeding 6 in. in diameter	5¢ per lineal ft.
All pipes exceeding 6 in. and not over 8 in.	6¢ per lineal ft.
All pipes exceeding 8 in. and not over 10 in.	7¢ per lineal ft.
All pipes exceeding 10 in. and not over 16 in.	8¢ per lineal ft.
All pipes exceeding 16 in. and not over 20 in.	10¢ per lineal ft.
All pipes exceeding 20 in. and not over 24 in.	12¢ per lineal ft.
All pipes over 24 in.	15¢ per lineal ft.

Section 5. The City of Seattle shall not be liable for any damage that may, from any cause, result from the laying down and operation of such pipes, but the grantee, its successors and assigns, shall save and keep said City free and harmless from any and all such damages, and should any final judgment be recovered against said City on account of such damage, said grantee shall pay the same within sixty days after being notified in writing so to do by said City, and failure of said grantee to make such payment within said period of sixty days shall be ground for forfeiting all the rights and privileges granted hereby; provided, said City shall in case any suit be brought against it on account of such damage, and before the

trial of such suit, give written notice to said grantee of the pendency of the same, and tender the defense of such suit to the grantee.

Section 6. Buildings belonging to the City of Seattle and used for municipal purposes, and public library buildings located on grounds abutting on any streets, avenues, alley or public place in which the pipes of said grantee, its successors or assigns, shall have been laid under this franchise, shall be heated by said grantee, its successors or assigns, upon request from proper authorities in charge of said buildings, at one-half of the lowest yearly contract rate which said grantee, its successors or assigns, shall at the time be charging to any private consumer for similar service, such rate to be adjusted annually; said public buildings to be so served at such reduced rates as one consideration for the granting of this franchise.

Section 7. This franchise and the rights herein granted may be assigned or mortgaged, but no such assignment or mortgage shall be valid until a copy thereof has been filed in the office of the City Clerk.

Section 8. The rights and privileges granted by this ordinance shall not be exclusive, but the City may grant the same or similar rights to any person, persons, or corporation, and make any number of such grants, and said City reserves the right to use said streets, avenues, alleys and public places itself for the same or similar purposes.

Section 9. This grant is subject to the right of the City Council, or of the people of the City acting for themselves by the initiative and referendum, at any time subsequent to the grant, to repeal, amend or modify the said grant with due regard to the rights of the grantee and the interest of the public; and to cancel, forfeit and abrogate the same if the franchise granted hereby is not operated in full accordance with its provisions, or at all; and at any time during the grant to acquire, by purchase or condemnation, for the use of the City itself at a fair and just value, which shall not include any valuation of the franchise itself, all of the property of the grantee used for the purpose of furnishing such steam heat service under this franchise and located within the area bounded and described in Section 1 hereof, and upon such acquisition this franchise shall thereupon terminate.

Section 10. The rights, privileges and franchise hereby granted shall be in force from and after the taking effect of this ordinance until twelve o'clock, midnight, March 14, 1952, and at such date this franchise shall cease and terminate unless sooner terminated as provided in this ordinance.

Section 11. The grantee, or its successors or assigns, shall consummate negotiations with the City for a new franchise for a term to be mutually agreed upon within one (1) year after termination of this grant. It is contemplated that the City will impose and the grantee, its successors or assigns, will accept reasonable terms and conditions. The question of the reasonableness of the terms and conditions imposed by the City shall be subject to judicial review as to whether the same are arbitrary or capricious. If, however, the grantee, its successors or assigns, refuses to accept a franchise on reasonable terms and conditions as determined by such judicial review, it shall within one (1) year after notice by the City, remove all pipes, conduits and appurtenances herein authorized from the streets, alleys and public places and shall place the portions of said streets, alleys and public places which may be disturbed for such removal in as good condition in all respects as the abutting portions thereof, and if said pipes, conduits and appurtenances be not removed within said period they shall become the property of the city.

Section 12. The said grantee, its successors and assigns, shall within thirty (30) days after the approval of this ordinance, file with the City Clerk its written acceptance of the franchise hereby granted.

Section 13. That Ordinance No. 7889, approved March 14, 1902, entitled:

"AN ORDINANCE granting to The Seattle Electric Company, a corporation, its successors and assigns, the right, privilege and authority to lay down, maintain and operate pipes in certain streets, alleys and public places in the City of Seattle, for the transmission of steam and water."

and Ordinance No. 14343, passed over the veto of the Mayor on October 12, 1906, entitled:

"AN ORDINANCE granting to the Seattle-Tacoma Power Company, a corporation, its successors and assigns, the right, privilege and authority to lay down, maintain and operate pipes and conduits in certain streets, avenues, alleys, and public places in the City of Seattle for the transmission of steam and water, and to thereby transmit and deliver steam and water and the use thereof, and to charge and collect reasonable rates, tolls and compensation therefor."

and Ordinance No. 16699, approved August 20, 1907, entitled:

"AN ORDINANCE granting to the Seattle-Tacoma Power Company, a corporation, its successors and assigns, the right, privilege and authority to lay down, maintain and operate pipes and conduits in certain streets, avenues, alleys and public places in the City of Seattle for the transmission of steam and water, and to thereby transmit and deliver steam and water and the use thereof, and to charge and collect reasonable rates, tolls and compensation therefor."

and Ordinance No. 40083, approved November 4, 1919, entitled:

"AN ORDINANCE amending Section 1 of Ordinance No. 7889 of the City of Seattle, entitled, "An Ordinance granting to The Seattle Electric Company, a corporation, its successors and assigns, the right, privilege and authority to lay down, maintain and operate pipes in certain streets, alleys and public places in the City of Seattle, for the transmission of steam and water," by enlarging the location therein described, and amending Ordinance No. 7889 by adding a new section numbered 1 $\frac{1}{2}$, placing the steam and water service authorized by Ordinance No. 7889 as hereby amended, and the rates to be charged therefor, under the control of the City of Seattle."

and Ordinance No. 53874, approved October 13, 1927, entitled:

"AN ORDINANCE, granting to Puget Sound Power & Light Company, a corporation, its successors and assigns, the right, privilege and authority to lay down, maintain and operate pipes and conduits in certain streets, avenues, alleys and public places in the city of Seattle for the transmission of steam and hot water, and to thereby transmit and deliver steam and hot water and the use thereof, and to charge and collect reasonable rates, tolls and compensation therefor."

and each of them, be, and the same are hereby, repealed.

Section 14. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed the City Council the 12 day of December, 19 38,
and signed by me in open session in authentication of its passage this 12 day of
December, 19 38 David Link
President _____ of the City Council.

Approved by me this 22 day of December, 19 38
Arthur Brundage
Mayor.

Filed by me this 22 day of December, 19 38
W. O. James
Attest:
City Comptroller and Ex-Officio City Clerk.

(SEAL)

Published DEC 23 1938

By R. E. Anderson
Deputy Clerk.

City Comptroller and Ex-Officio City Clerk.

By _____
Deputy Clerk.