

# ORDINANCE 1488

**AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, EXTENDING A FRANCHISE TO PUGET SOUND ENERGY, INC., TO SET, ERECT, CONSTRUCT, SUPPORT, ATTACH, CONNECT AND STRETCH FACILITIES BETWEEN, ALONG ACROSS AND THROUGH THE FRANCHISE AREA FOR THE PURPOSES OF TRANSMISSION, DISTRIBUTION AND SALE OF ELECTRIC ENERGY FOR POWER, HEAT, LIGHT AND ANY OTHER PURPOSE FOR WHICH ELECTRIC ENERGY CAN BE USED**

**WHEREAS**, on October 12, 1998, the City Council of the City of North Bend, Washington, adopted Ordinance 1050 which granted to Puget Sound Energy (PSE) a franchise for the purpose of allowing PSE to use City streets, roads, avenues, alleys, highways and other public rights of way for its poles, wires, lines, conduits, cables and accessory facilities in order to sale and distribute electric energy (“Franchise”); and

**WHEREAS**, Section 12 of the Franchise provided a term of ten (10) years commencing on the effective date of the Ordinance on October 29, 1998 and continuing until October 28, 2008 (“Term”); and

**WHEREAS**, Section 13 of the Franchise provides that the Franchise may be amended only written agreement of both the parties; and

**WHEREAS**, the parties desire to amend the Franchise to extend the term for an additional period of ten (10) years;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Amendment to Term of Franchise:** Section 12 of the Franchise entitled “Franchise Term” shall be amended as follows:

12.1 This Franchise is and shall remain in full force and effect for a period of ~~ten (10)~~ twenty (20) years from and after the effective date of the Ordinance, provided, however, PSE shall have no rights under this Franchise nor shall PSE be bound by the terms and conditions of this Franchise unless PSE shall, within sixty (60) days after the effective date of the Ordinance, file with the City its written acceptance of the Ordinance and any amendments to the Ordinance.

**Section 2. Franchise to Remain in Full Force and Effect:** Except as otherwise amended by this Ordinance; common law requiring utility companies to bear the expense of relocating utilities for public street improvements; or Washington Natural Gas Co. v. City of Seattle, 60 Wash.2d 183, 373 P.2d 133 (1962) and City of Auburn v. Qwest Corporation, 260 F.3d 1160 (2001), the terms and conditions of the Franchise shall remain in full force and effect.

**Section 3. Severability:** If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

**Section 4. Effective Date:** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21<sup>ST</sup> DAY OF MAY, 2013.**

**CITY OF NORTH BEND:**

**APPROVED AS TO FORM:**

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**Kenneth G. Hearing, Mayor**

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**Michael R. Kenyon, City Attorney**

**ATTEST/AUTHENTICATED:**

Published: May 29, 2013  
Effective: June 3, 2013

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**Susie Oppedal, City Clerk**