



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2023-472**

File ID:	AB2023-472	Version:	1	Status:	Approved
File Created:	07/12/2023	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Resolution		
Assigned to:	Council Climate Action and Natural Resources Committee	Final Action:	07/25/2023		
Agenda Date:	07/25/2023	Enactment #:	RES 2023-017		

Primary Contact Email: SBatdorf@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution authorizing the County Executive to grant an easement to Puget Sound Energy across park property to service two private residences located off of Blue Canyon Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Puget Sound Energy has requested that Whatcom County grant an easement across park property to service two private residences with underground electrical service. The residential property owners will pay the fair market value for their individual easement areas as a condition of an entrance agreement that allows them to excavate a trench in which Puget Sound Energy will install the underground service.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/25/2023	Council Climate Action and Natural Resources Committee	RECOMMENDED FOR APPROVAL	
		Aye: 3 Donovan, Elenbaas, and Galloway	
		Nay: 0	
07/25/2023	Council	APPROVED	
		Aye: 7 Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner	
		Nay: 0	

Attachments: Memorandum, Proposed Resolution, Exhibit A - Easement, Entry Agreements

PROPOSED BY: Parks & Recreation

INTRODUCED: _____

RESOLUTION NO. 2023 - 017

GRANTING AN EASEMENT TO PUGET SOUND ENERGY

WHEREAS, Whatcom County owns park property on Blue Canyon Road; and,

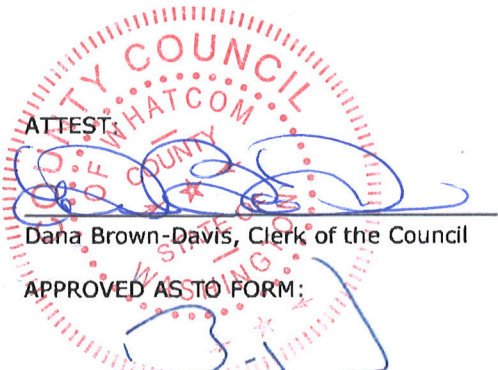
WHEREAS, Puget Sound Energy has requested that Whatcom County grant a private utility easement to service two adjoining residential residences located off Blue Canyon Road to provide utility upgrades; and,

WHEREAS, under the condition that current overhead electrical wires are removed and new services wires and all associated equipment be installed underground, the Parks Department recommends approval of the utility easement for mutual benefit; and,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Executive is authorized to execute an easement for Puget Sound Energy as shown in Exhibit A.

APPROVED this 25th day of July, 2023.

ATTEST:



Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

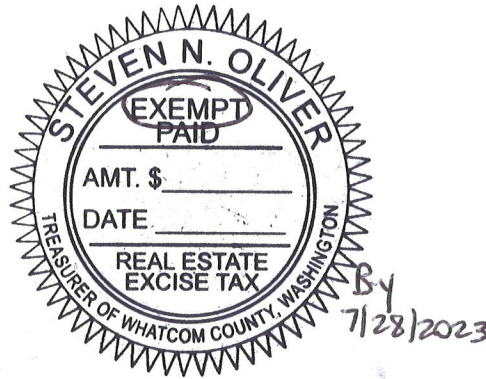
Brandon Waldron, Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Council Chair



RETURN ADDRESS:
Puget Sound Energy, Inc.
Attn: Real Estate/Right of Way
1660 Park Lane
Burlington, WA 98233



EASEMENT

REFERENCE #: N/A
GRANTOR: WHATCOM COUNTY
GRANTEE: PUGET SOUND ENERGY, INC.
SHORT LEGAL: PTN LOTS 3-16, BLK 15, BLUE CANYON CITY & PTN VAC RAILROAD AVE
ASSESSOR'S TAX #: PTN 370422 200435 0000 / PID 34193

For mutual benefit, of which the sufficiency is hereby acknowledged, **WHATCOM COUNTY**, a Washington municipal corporation ("Owner"), hereby grants and conveys to **PUGET SOUND ENERGY, INC.**, a Washington corporation ("PSE"), for the purposes hereinafter set forth, a nonexclusive perpetual easement over, under, along, across and through the following described real property in Whatcom County, Washington (the "Property"):

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

Except as may be otherwise set forth herein, PSE's rights shall be exercised upon that portion of the Property the ("Easement Area") described as follows:

A RIGHT OF WAY TEN (10) FEET IN WIDTH WITH FIVE (5) FEET ON EACH SIDE OF A CENTERLINE DESCRIBED AS FOLLOWS:

THE CENTERLINE OF GRANTEE'S FACILITIES AS NOW CONSTRUCTED, TO BE CONSTRUCTED, EXTENDED OR RELOCATED LYING WITHIN THE ABOVE DESCRIBED PARCEL.

SEE EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF

1. Purpose. PSE shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, remove, upgrade and extend two utility systems to APNs 370422 332305 0000 and 370422 323345 0000 for the purposes of transmission, distribution and sale of electricity. Such systems may include:

Underground facilities. Conduits, lines, cables, vaults, switches and transformers for electricity; fiber optic cable and other lines, cables and facilities for communications; ~~semi-buried or ground-mounted facilities and pads, manholes, meters, fixtures, attachments and any and all other facilities or appurtenances necessary or convenient to any or all of the foregoing.~~

Following the initial construction of all or a portion of its systems, PSE may, from time to time, construct such additional underground facilities as it may require for such systems.

2. Access. PSE shall have a reasonable right of access to the Easement Area over and across the Property to enable PSE to exercise its rights granted in this easement.

3. Easement Area Clearing and Maintenance. PSE shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Area. PSE shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees or other vegetation in the Easement Area.

4. Restoration. Following the initial installation, repair or extension of its facilities, PSE shall, to the extent reasonably practicable, restore landscaping and surfaces and portions of the Property affected by PSE's work to the condition existing immediately prior to such work. PSE shall use good faith efforts to perform its restoration obligations under this paragraph as soon as reasonably possible after the completion of PSE's work.

5. Owner's Use of Easement Area. Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not perform the following activities without PSE's prior written consent: (1) excavate within or otherwise change the grade of the Easement Area; (2) construct or maintain any buildings, structures or other objects on the Easement Area; and/or (3) conduct any blasting within 300 feet of PSE's facilities.

6. Indemnity. PSE agrees to indemnify Owner from and against liability incurred by Owner as a result of PSE's negligence, or the negligence of PSE's employees, agents or contractors in the exercise of the rights herein granted to PSE, but nothing herein shall require PSE to indemnify Owner for that portion of any such liability attributable to the negligence of Owner, its employees, agents or contractors or the negligence of third parties.

7. Attorneys' Fees. The prevailing party in any lawsuit brought to enforce or interpret the terms of this Easement shall be entitled to recover its reasonable attorneys' fees and costs incurred in said suit, including on appeal.

8. Successors and Assigns. This Easement is binding upon and will inure to the benefit of the successors and permitted assigns of the parties. PSE may not assign or otherwise transfer any of its rights, obligations or interest under this Easement without the prior written consent of Owner, which consent may not be unreasonably withheld. Notwithstanding the foregoing, PSE may assign this Easement to an affiliate or in connection with a merger, acquisition, corporate reorganization, sale of assets or other change in control.

9. Complete Agreement; Amendment; Counterparts. This Easement contains the entire agreement of the parties with respect to this subject matter and supersedes all prior writings or discussions relating to the Easement. This Easement may not be amended except by a written document executed by the authorized representatives of Owner and PSE. This Easement may be executed in counterparts, each of which shall be treated as an original for all purposes and all executed counterparts shall constitute one agreement.

10. Warranty and Representation of Authority. The parties each represent to the other that the person or persons executing this Easement have authority to do so and to bind the parties hereunder. All consents, permissions and approvals related to this Easement, and the obligations hereunder, have been obtained. Owner further warrants to PSE that it has the necessary right, title and interests in the Property to grant the easement rights set forth herein.

12. Severability. Invalidation of any of the provisions contained in this Easement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other

provisions thereof or the application thereof to any other person and the same shall remain in full force and effect. If a provision is found to be unenforceable or invalid, that provision shall be modified or partially enforced to the maximum extent permitted by law to effectuate the purpose of this agreement.

13. Non-Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

[signatures follow next page]

DATED this 20th day of July, 2023.

OWNER:

WHATCOM COUNTY, a Washington municipal corporation

Approved as to form:

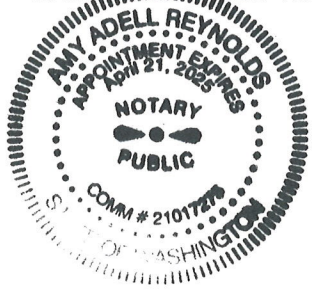
Approved via email BW
Prosecuting Attorney

Satpal Sidhu
SATPAL SIDHU, County Executive

STATE OF WASHINGTON)
) SS
COUNTY OF Whatcom)

On this 20th day of July, 2023, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **SATPAL SIDHU**, to me known to be the person(s) who signed as County Executive, of **WHATCOM COUNTY, a Washington municipal corporation**, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed and the free and voluntary act and deed of said **corporation**, for the uses and purposes therein mentioned; and on oath stated that he was authorized to execute the said instrument on behalf of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



AAR

(Signature of Notary)

Amy Reynolds

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington, residing at Bellingham

My Appointment Expires: 4/21/25

Notary seal, text and all notations must be inside 1" margins

Exhibit "A"

Lots 3 to 16 inclusive, Block 15, as shown on the plat of "Blue Canyon City" recorded in Volume 4 of Plats, page 7 in the Auditor's office of Whatcom County, Washington lying Westerly of Blue Canyon County Road No. 689.

Also that portion of vacated Railroad Avenue that would attach by operation of law, as shown on the plat of "Blue Canyon City" recorded in Volume 4 of Plats, page 7 in the Auditor's office of Whatcom County, Washington, and as vacated in Volume 51, pages 211 and 212 of Commissioner's Proceedings of Whatcom County, Washington, and as depicted on that certain Record of Survey, recorded under Auditor's File No. 2018-0302805, records of Whatcom County, Washington.

Less Roads.

Situate in Whatcom County, Washington.

Exhibit "B"



APN 370422 323345

Blue Canyon Road

Ptn APN 370422 200435

Whatcom County Parks

Approximate location of poles

Approximate location of underground power

APN 370422 332305

