

**ORDINANCE NO. 1527  
SERIES 2007**

**AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE BY THE CITY OF LOUISVILLE TO PUBLIC SERVICE COMPANY OF COLORADO AND ITS LAWFUL SUCCESSORS AND ASSIGNS FOR THE RIGHT TO MAKE REASONABLE USE OF CITY STREETS TO PROVIDE UTILITY SERVICE TO THE CITY AND TO ITS RESIDENTS AND TO ACQUIRE, PURCHASE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE, AND EXTEND INTO, WITHIN AND THROUGH THE CITY ALL COMPANY FACILITIES REASONABLY NECESSARY FOR THE GENERATION, PRODUCTION, MANUFACTURE, SALE, STORAGE, PURCHASE, EXCHANGE, TRANSMISSION, TRANSPORTATION AND DISTRIBUTION OF UTILITY SERVICE WITHIN AND THROUGH THE CITY, AND APPROVING A STREET LIGHTING AND TRAFFIC SIGNAL LIGHTING SERVICE AGREEMENT AND A RIGHT OF FIRST PURCHASE LETTER AGREEMENT BETWEEN THE CITY AND PSCO.**

**WHEREAS**, Public Service Company of Colorado, doing business as Xcel Energy (“Company”), currently holds an electric and gaseous fuel franchise from the City of Louisville (“City”), granted by Ordinance No. 544, Series 1977, as amended by Ordinance No. 994, Series 1989, Ordinance No. 1258, Series 1997, Ordinance No. 1296, Series 1999, Ordinance No. 1378, Series 2002, Ordinance No. 1449, Series 2004, Ordinance No. 1548, Series 2004, Ordinance No. 1472, Series 2005, and Ordinance No. 1522, Series (“current franchise”); and

**WHEREAS**, the current franchise extends through December 31, 2007; and

**WHEREAS**, the Company and the City have been involved in negotiations related to the granting of a new franchise to the Company, and these negotiations have resulted in a proposed Franchise Agreement that is being presented to City Council for its consideration and approval (the “Franchise Agreement”), a copy of which Franchise Agreement accompanies this ordinance and is on file with the City Clerk; and

**WHEREAS**, the Franchise Agreement includes, among other provisions, the following major terms and conditions: (1) a term of twenty years; (2) a requirement that the Company pay to the City a franchise fee of three percent of the Gross Revenues that the Company receives from the sale of gas and electricity to Residents of the City as well as from the transportation of gas to Residents and from the use of Company facilities within the Streets; and (3) other provisions regarding the provision of Utility Service, the construction, operation and relocation of Company Facilities, and other performance obligations; and

**WHEREAS**, the negotiation of the Franchise Agreement has also resulted in a proposed Street Lighting and Traffic Signal Lighting Service Agreement by and between the Company and the City (the “Street Lighting Agreement”), and a proposed letter agreement between the Company and the City providing that the City shall have the right of first purchase on any and all real property owned by the Company and located within the City (the “Right of First Purchase Agreement”); and

**WHEREAS**, Section 14-1 of the City Charter provides that the granting, renewal or amendment of any franchise shall be by ordinance of the City Council; and

**WHEREAS**, the City Council finds that the City's grant of a franchise to the Company in accordance with the terms and conditions of the Franchise Agreement is in the best interests of the City and its citizens, and will serve to meet utility service related needs of the community; and

**WHEREAS**, the City Council further finds that the City's approval of the associated Street Lighting Agreement and the Right of First Purchase Agreement are in the best interests of the City and its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:**

**Section 1.** The City Council hereby approves the proposed Franchise Agreement by and between the City of Louisville, Colorado and Public Service Company of Colorado in the form of such Franchise Agreement accompanying this ordinance as Attachment 1, and hereby authorizes the grant of franchise therein contained subject to and upon the terms and conditions of said Franchise Agreement.

**Section 2.** The Mayor and City Clerk are authorized to execute the Franchise Agreement on behalf of the City, such execution to be on or after the effective date of this ordinance and subject to the requirement that Public Service Company of Colorado shall have first executed and delivered the same, the Street Lighting Agreement, the Right of First Purchase Agreement, and the letter regarding Section 1.8 of the Franchise Agreement.

**Section 3.** The City Council hereby approves the proposed Street Lighting Agreement by and between the City of Louisville, Colorado and Public Service Company of Colorado in the form of such Street Lighting Agreement accompanying this ordinance as Attachment 2, and further hereby approves the Right of First Purchase Agreement in the form of such Right of First Purchase Agreement accompanying this ordinance as Attachment 3.

**Section 4.** The Mayor and City Clerk are authorized to execute the Street Lighting Agreement and the Right of First Purchase Agreement on behalf of the City, such execution to be on or after the effective date of this ordinance.

**Section 5.** If any portion of this ordinance is held to be invalid for any reason, such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

**Section 6.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED  
PUBLISHED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Charles L. Sisk, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Varra, City Clerk

APPROVED AS TO FORM:

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Light, Harrington & Dawes, P.C.  
City Attorney

**PASSED AND ADOPTED ON SECOND AND FINAL READING**, this \_\_\_\_\_ day of  
\_\_\_\_\_, 2007.

\_\_\_\_\_  
Charles L. Sisk, Mayor

ATTEST:

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Nancy Varra, City Clerk