

# Bylaw 19626 - EPCOR Water Services Bylaw

## A Bylaw to Replace Bylaw 17698 - EPCOR Water Services and Wastewater Treatment Bylaw

### Recommendation

That Utility Committee recommend to the August 30, 2021, City Council meeting:

That Bylaw 19626, EPCOR Water Services Bylaw, be given the appropriate readings.

### Purpose

To establish new customer rates and terms and conditions of service for Water Services provided by EPCOR Water Services Inc. for the five year period April 1, 2022 to March 31, 2027.

### Readings

Bylaw 19626 is ready for three readings, pending recommendations and directions provided by the Utility Committee at the August 27, 2021 meeting.

A majority vote of City Council on all three readings is required for passage.

If Council wishes to give three readings during a single meeting, then prior to moving third reading, Council must unanimously agree “That Bylaw 19626 be considered for third reading.”

### Advertising and Signing

This Bylaw has been advertised in the Edmonton Journal and the Edmonton Sun on April 1, 2021 and April 8, 2021. The Bylaw can be signed and thereby passed following third reading by City Council.

### Position of Administration

Administration supports this Bylaw.

Administration completed a reasonableness review of the 2022-2026 Water Services Performance Based Rates Application submitted by EWSI in February 2021, and highlighted certain areas that Utility Committee may wish to consider further to

determine if adjustments to the rates application is warranted (June 25, 2021, Utility Committee, Financial and Corporate Services report FCS00624).

Administration has also reviewed the Water Services Performance Based Rates Compliance Application submitted by EWSI on July 27, 2021 and confirms that EWSI has appropriately amended the applicable schedules in the proposed Bylaw 19626 to incorporate the adjustments included in the motions passed by Utility Committee at the June 25/July 9, 2021 meeting.

### **Previous Council/Committee Action**

At the June 25/July 9, 2021 Utility Committee meeting, the following motions were passed:

That Administration work with EPCOR to bring forward amendments to the applicable schedules to EPCOR Water Services Bylaw 19626 and EPCOR Drainage Services and Wastewater Treatment Bylaw 19627 to reflect the following:

1. The adjustments noted by EPCOR Water Services Inc. in its response to the City of Edmonton PBR review reports (page 6, Attachment 3 of FCS00627) with respect to:
  - a. reduced debt costs in the amount of \$3.7 million; and
  - b. the reimbursement to customers for the capitalization of valve casings and service box replacements in the amount of \$5.2 million.
2. A deferral account for water consumption for each of Water Services, Wastewater Treatment and Drainage Services that would be accumulated during the 2022-2026 and 2022-2024 PBR terms and included in customer rates in each of the next PBR terms through a special rate adjustment.
3. A Return on Equity for Water Services for 2022-2026 and for Wastewater Treatment for 2022-2024 of 9.89% be reduced to 9.64% as a reflection of the risk reduction of the consumption deferral account (with no change to the requested Return on Equity for Drainage Services contained in the rates application).
4. An Efficiency Factor for Drainage Services for the 2022-2024 Performance Based Rates term of 0.50%.
5. That all non-routine adjustments applied for by Water Services, Drainage Services and Wastewater Treatment during the 2022-2026 and 2022-2024 Performance Based Rates terms be charged to the Adjustment Deferral Accounts. A two step approach would be followed whereby EPCOR Water Services Inc., may receive interim approval and funding for the proposed adjustment with a final true up of funding being completed based on actual costs.

That Administration work with EPCOR to bring forward reports prior to the next Performance Based Rates term for Drainage Services and Wastewater Treatment effective April 1, 2025, providing further background and the appropriate regulatory treatment for the following items:

1. Improved disclosure of changes in accounting and capitalization policies and treatment;
2. Reporting the size of the workforce including actual and forecast full- time equivalents;
3. A review of how long-term debt interest rates are set for EPCOR Water Services Inc.;
4. A review of the performance measures to ensure they are increasingly stringent and challenging over time; and
5. A review of the deferral account and other adjustment mechanisms to deal with variations in usage.

### **Report Summary**

This report includes the Performance Based Rates (PBR) Compliance Application and proposed Bylaw 19626 - EPCOR Water Services Bylaw submitted by EPCOR Water Services Inc. (EWSI) to establish new customer rates and terms and conditions of service for Water Services for the five year period April 1, 2022 to March 31, 2027.

The proposed EPCOR Water Services Bylaw 19626 (Attachment 1) replaces the existing Bylaw 17698 - EPCOR Water Services and Wastewater Treatment Bylaw (blackline version Attachment 2).

The Compliance Application (Attachment 3) incorporates amendments to the proposed EPCOR Water Services Bylaw 19626 in accordance with the motions passed by the Utility Committee on July 9, 2021.

The Water Services 2022-2026 PBR Compliance Application Financial Schedules are included as Attachment 4.

### **Report**

#### **Background**

EWSI provides water, wastewater treatment and drainage services to the City of Edmonton. The City of Edmonton has franchise agreements with EWSI that grant EWSI the exclusive right to provide these services within the boundaries of the City of Edmonton. As a utility, EWSI is subject to regulation to ensure services are provided at a fair price and that appropriate service levels are maintained. City Council maintains

regulatory oversight responsibility for the water, wastewater treatment and drainage utilities owned and operated by EWSI. The provincial *Public Utilities Act* and *Municipal Government Act* provide City Council with the authority to pass bylaws relating to municipal public utilities, including those owned and operated by municipally controlled corporations, and to set terms, costs, or charges relating to those public utilities within the boundaries of the City of Edmonton. As regulator, City Council is expected to balance the interests of the customers (high quality and reliable services at reasonable costs) with the interests of EWSI (financially sustainable utility that provides fair investment returns).

City Council has approved separate bylaws to establish the customer rates and terms and conditions of service under performance based regulation for each of EPCOR Water Services and Wastewater Treatment Bylaw 17698 and EPCOR Drainage Services Bylaw 18100. Council approved Bylaw 17698 on October 25, 2016 that set customer rates for water services and wastewater treatment services charged by EWSI for the five year period of April 1, 2017 to March 31, 2022. This was the fourth performance based regulation term for water services, which were first regulated under performance based regulation beginning in 2002, and was the second performance based regulation term for wastewater treatment services, which were first regulated under performance based regulation beginning in 2012. With the transfer of drainage services from the City of Edmonton to EWSI effective September 1, 2017, Council approved Bylaw 18100 on September 12, 2017 that sets customer rates for drainage services charged by EWSI for the period January 1, 2018 to March 31, 2022.

To better align wastewater collection and wastewater treatment, from both the ratepayer and regulator perspectives, EPCOR is proposing to amend both the Water Services and Wastewater Treatment Bylaw 17698 and Drainage Services Bylaw 18100 to include wastewater treatment rates together with the sanitary and stormwater rates (i.e., Drainage Services rates) in the Drainage Services and Wastewater Treatment Bylaw 19627 effective April 1, 2022.

The Wastewater Treatment and Drainage Services PBR Compliance Application and corresponding proposed EPCOR Drainage Services and Wastewater Treatment Bylaw 19627 are included in the August 27, 2021, Utility Committee, Financial and Corporate Services report FCS00744.

### **Summary of PBR Applications**

In February 2021, EWSI submitted a PBR Application and proposed EPCOR Water Services Bylaw 19626 for approval by City Council to establish customer rates for Water Services for the five year period April 1, 2022 to March 31, 2027. At that time, EWSI also submitted PBR Applications for each of Wastewater Treatment and Drainage Services for the three year period April 1, 2022 to March 31, 2025.

The main elements of the Water Services PBR Application to set customer rates effective April 1, 2022 to March 31, 2027 include the following:

- A mechanism to adjust customer rates, fees and charges annually under a performance based regulation formula (e.g., Inflation Factor (“I”) less Efficiency Factor (“X”));
- Special Rate Adjustments (SRAs) required to recover the costs not covered under the performance based regulation formula (I-X);
- A mechanism for non-routine adjustments under the performance based regulation framework, similar to Bylaw 17698 for Water and Wastewater Treatment Services and Bylaw 18100 for Drainage Services;
- Terms and Conditions of service; and
- Service quality metrics and targets, detailed in a similar manner to Bylaw 17698.

### **Regulatory Process and Utility Committee Deliberations**

The regulatory process and guiding objectives for Utility Committee and City Council to assess the EWSI PBR Applications were approved by Council on February 22, 2021 (Attachment 5).

On June 25/July 9, 2021, Utility Committee reviewed the EWSI PBR Applications including the following reports:

- FCS00456 - proposed bylaw and rates application to establish new customer rates for Water Services;
- FCS00483 - proposed bylaw and rates applications to establish new customer rates for Drainage Services and Wastewater Treatment;
- FCS00623 - written responses from EWSI to questions from Councillors, the Utility Advisor and Administration, in addition to written submissions from the public;
- FCS00624 - reasonableness review of the rates applications by Administration;
- FCS00625 - review of the rates applications by the Utility Advisor; and
- FCS00627 - responses from EWSI to written submissions from the public and the reviews completed by Administration and the Utility Advisor of the rates applications.

At the conclusion of its deliberations of the EWSI PBR rates applications on July 9, 2021, Utility Committee passed a motion that Administration work with EPCOR to bring forward amendments to the applicable schedules to EPCOR Water Services Bylaw 19626 and EPCOR Drainage Services and Wastewater Treatment Bylaw 19627. The amendments included:

- reduced debt costs in the amount of \$3.7 million and the reimbursement to customers for the capitalization of valve casings and service box replacements in the amount of \$5.2 million;

- a deferral account for water consumption for each of Water Services, Wastewater Treatment and Drainage Services that would be accumulated during the 2022-2026 and 2022-2024 PBR terms and included in customer rates in each of the next PBR terms through a special rate adjustment;
- a decrease in the applied for return on equity for Water Services for 2022-2026 and for Wastewater Treatment for 2022-2024 from 9.95 to 9.64 percent, with no change to the requested return on equity for Drainage Services contained in the rates application;
- an increase in the applied for efficiency factor for Drainage Services for the 2022-2024 PBR term from 0.25 to 0.50 percent; and
- that all non-routine adjustments applied for by Water Services, Drainage Services and Wastewater Treatment during the 2022-2026 and 2022-2024 PBR terms be charged to the Adjustment Deferral Accounts. A two step approach would be followed whereby EWSI may receive interim approval and funding for the proposed adjustment with a final true up of funding being completed based on actual costs.

On July 27, 2021, EWSI submitted a PBR Compliance Application (Attachment 3) that incorporates amendments to the proposed EPCOR Water Services Bylaw 19626 and EPCOR Drainage Services and Wastewater Treatment Bylaw 19627 (August 27, 2021, Financial and Corporate Services report FCS00744) in accordance with the directions from the Utility Committee on July 9, 2021.

Administration has reviewed the PBR Compliance Application and confirms that EWSI has appropriately amended the applicable schedules in the proposed Bylaws 19626 and 19627 to incorporate the adjustments included in the motions passed by Utility Committee. As detailed in Tables 3.0-1 to 3.0-4 of the Compliance Application, the adjustments result in a cumulative reduction in the applied for revenue requirements for Water Services over the five year period 2022-2026 in the amount of \$17.2 million in total, for Wastewater Treatment over the three year period 2022-2024 in the amount of \$3.4 million in total, and for Drainage Services over the three year period 2022-2024 in the amount of \$0.6 million in total.

**Corporate Outcomes and Performance Management**

<b>Corporate Outcome(s): The City of Edmonton has sustainable and accessible infrastructure.</b>			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>

Oversight and transparency of EPCOR water, wastewater and drainage services.	Annual and periodic reporting to Utility Committee of financial performance, operating and capital programs, and service quality levels.	Annual Progress Report - Water, Wastewater, Drainage (Fall 2020) Annual Operational Plan (Feb 2021) Performance Based Rates Applications (Feb 2021)	Annual Progress Report - Water, Wastewater, Drainage (June) Annual Operational Plan (Q1)
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**Public Engagement**

The public had an opportunity to provide feedback at the Utility Committee meeting held on June 25, 2021 regarding the EWSI PBR applications. The process for the review and approval of the EWSI rates applications was advertised in the Edmonton Journal and the Edmonton Sun on April 1, 2021 and April 8, 2021. EWSI also completed a stakeholder engagement process as part of the PBR application development to ensure that programs and initiatives aligned with stakeholder expectations.

**Budget/Financial Implications**

Approval of EPCOR Water Services Bylaw 19626 will have financial implications on EPCOR’s Water Services revenues, therefore impacting the EPCOR franchise fee and dividend received annually by the City.

Approval of public fire protection costs to be funded through water utility rates effective April 1, 2022 would reduce the operating budget requirements for Fire Rescue Services and the resulting impact on the property tax levy. If the change in funding is approved by Council as part of EWSI’s rates application to set water utility rates for the period April 1, 2022 to March 31, 2027, Administration will bring forward the corresponding amendments to the Fire Rescue Services operating budget effective 2022 as part of the Fall 2021 Supplemental Operating Budget Adjustment process later this fall.

**Legal Implications**

Public utilities owned or operated by municipalities providing service within that municipality are generally regulated by their municipal councils, as they are exempt from Alberta Utilities Commission regulation pursuant to s. 78.2 of the *Public Utilities Act*, RSA 2000, H-16. Public utilities that are not owned or operated by municipalities and that supply water, heat, light or power are regulated by the Alberta Utilities Commission. Public utilities that are owned or operated by a municipally controlled corporation and provide a utility service within the boundaries of the municipality are exempt from regulation by the Alberta Utilities Commission pursuant to s. 75.4 of the *Municipal Government Act*, RSA 2000, C-26.

EPCOR Water Services and Wastewater Treatment Bylaw 17698 and EPCOR Drainage Services Bylaw 18100 set out a mechanism for setting and adjusting fees, rates and charges for water, wastewater treatment and drainage services for a period that expires March 31, 2022. Therefore, new bylaws are required to set fees, rates and charges to be effective April 1, 2022.

### **Attachments**

1. Bylaw 19626 - Proposed EPCOR Water Services Bylaw (Clean Version)
2. Bylaw 19626 - Proposed EPCOR Water Services Bylaw (Blackline Version)
3. EPCOR Water Services Inc. - 2022-2024/2026 PBR Compliance Application
4. EPCOR Water Services Inc. - Water Services 2022-2026 PBR Compliance Application Financial Schedules
5. EWSI 2022-2026 PBR Applications - Regulatory Schedule and Guiding Objectives

### **Others Reviewing this Report**

- C. Owen, Deputy City Manager, Communications and Engagement
- K. Fallis-Howell, Acting City Solicitor