

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 16, 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 June 25, 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 completed a reasonableness review of the Water Services 2022-2026 rates application and has highlighted certain areas that Utility Committee and City Council may wish to consider to determine if adjustments to the rates application and proposed EPCOR Water Services Bylaw 19626 are warranted (June 25, 2021, Utility Committee, Financial and Corporate Services report FCS00624).

Report Summary

This report includes the performance based rates 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 replaces the existing Bylaw 17698 - EPCOR Water Services and Wastewater Treatment Bylaw. This report also outlines the approved process and timing for the assessment and approval of the rates application and proposed Bylaw.

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 *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 rates applications and corresponding proposed EPCOR Drainage Services and Wastewater Treatment Bylaw 19627 are included in the June 25, 2021, Utility Committee, Financial and Corporate Services report FCS00483.

Summary of PBR applications

In February 2021, EWSI submitted a performance based rates (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 performance based 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 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.

EWSI’s 2022-2026 Performance Based Rates Water Application includes the following supporting material:

- Proposed EPCOR Water Services Bylaw 19626 (clean version in Attachment 1; blackline version in Attachment 2);
- 2022-2026 Water Services Rates Application including Financial Schedules (Attachment 3);
- Appendices A to Q, which include appendices common to both the Water Services, Drainage Services and Wastewater Treatment Applications as well as the Water Services business cases in Appendix F (Attachment 4); and
- PBR Reader’s Guide of EWSI rates applications (Attachment 5).

Process

The regulatory process and guiding objectives for Utility Committee and City Council to assess the EWSI performance based rates applications were approved by Council on February 22, 2021 (Attachment 6). In addition to this report, the following Financial and Corporate Services reports in respect of the Water Services, Drainage Services and Wastewater Treatment PBR Applications will also be presented to Utility Committee on June 25, 2021:

- FCS00483 - proposed bylaw and rates applications to establish new customer rates for Drainage and Wastewater Treatment Services;
- 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.

Corporate Outcomes and Performance Management

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

Public Engagement

The public will have an opportunity to provide feedback at the Utility Committee meeting held on June 25, 2021 regarding the EWSI performance based rates 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 as part of the 2022 supplemental operating budget adjustment.

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*.

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.

Next Steps

In advance of the approval of the updated rates applications and proposed bylaws by City Council in August 2021, EWSI will prepare "Compliance Filings" (updated rates applications) that incorporate direction received from Utility Committee on June 25, 2021 in addition to any other adjustments identified for the Water Services rate application.

Attachments

1. Bylaw 19626 - Proposed EPCOR Water Services Bylaw (Clean Version)

2. Bylaw 19626 - Proposed EPCOR Water Services Bylaw (Blackline Version)
3. EWSI 2022-2026 Performance Based Regulation Water Application
4. EWSI 2022-2026 and 2022-2024 Rates Applications - Appendices A to Q
5. EWSI PBR Reader's Guide: An Executive Summary of the 2022-2026 Water Cycle Utilities PBR Applications
6. EWSI 2022-2026 PBR Applications - Regulatory Schedule and Guiding Objectives

Others Reviewing this Report

- C. Owen, Deputy City Manager, Communications and Engagement
- S. McCabe, Deputy City Manager, Urban Planning and Economy
- K. Fallis-Howell, Acting City Solicitor