

## **BYLAW 20959 - EPCOR DISTRIBUTION AND TRANSMISSION INC. ELECTRIC DISTRIBUTION SYSTEM FRANCHISE AGREEMENT**

### **Recommendation**

That Utility Committee recommend to the November 13/14, 2024, City Council:

That Bylaw 20959 be given the appropriate readings.

### **Purpose**

To consent to an agreement permitting EPCOR Distribution and Transmission Inc. (EDTI) to exclusively distribute electric power in the City of Edmonton and to enter into a new franchise agreement between the City of Edmonton and EDTI for the distribution of electricity in Edmonton in the form and on the terms set out in Schedule “A” of Bylaw 20959 (Franchise Agreement).

### **Readings**

Bylaw 20959 is ready for three readings.

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 20959 be considered for third reading.”

### **Advertising and Signing**

This bylaw does not need to be advertised, however the Franchise Agreement must be advertised and approved by the Alberta Utilities Commission (AUC) before the bylaw can come into effect, in accordance with section 45 of the *Municipal Government Act* and section 139 of the *Electric Utilities Act*. The Franchise Agreement will be advertised in the Edmonton Journal immediately following this Bylaw’s passing by Council, and following the notice period, it will be submitted by EDTI to the AUC for approval.

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### **REPORT**

As a result of Bill 19, (the *Utilities Affordability Statutes Amendment Act, 2024*), the City is required to have its electricity (EDTI) and natural gas (ATCO Gas and Pipelines Ltd.) franchise agreements reviewed and approved by the AUC by March 17, 2025. The agreements need to be submitted to AUC by December 4, 2024, and January 10, 2025, respectively.

The natural gas franchise agreement aligns with AUC regulations, so no amendments are needed, and it needs to be provided to AUC for review at a later date as it is already compliant with AUC regulations. ATCO will submit it to the AUC for review and approval.

The City of Edmonton's electricity franchise agreement is with EDTI and provides the exclusive right to distribute electricity within the City (effective January 1, 2004, to December 31, 2023). The City and EDTI have agreed to a one-year extension to December 31, 2024, and an additional extension until a new agreement is consented to by City Council and approved by the AUC.

Administration is proposing changes to the electricity franchise agreement. The changes include:

- Revision of the franchise fee calculation formula to align with AUC guidance, which calculates the franchise fee based on a franchise fee rate multiplied by annual distribution revenue (franchise fee rate x distribution revenue). Previously the franchise fee was calculated by increasing the prior year franchise fee budget amount by inflation and annual system growth factor.
- Implementing a franchise fee rate of 15.5 per cent of distribution revenue. This rate will result in franchise fee revenues being within +/- \$1 million compared to the current planned franchise fees for 2025-2027. This rate results in the least impact to ratepayers, while complying with the AUC approved model.
- A clause in the franchise agreement to allow annual increases to the rate up to the 20 per cent maximum allowed by the AUC.
- Some minor modifications to reflect the City and EDTI's unique relationship and practices.

Attachment 1 includes Bylaw 20959, with the proposed Franchise Agreement attached as Schedule "A". A summary of the proposed Franchise Agreement is provided for in Attachment 2.

A summary of Bill 19, (the *Utilities Affordability Statutes Amendment Act, 2024*) and Administration's review of its impacts on the City's electricity franchise agreements, including detailed analysis and options considered, is included in Attachment 3, which provides the analysis and rationale for Administration's recommendations on changes to the electricity franchise fee formula.

### Next Steps

Administration seeks Utility Committee's recommendation of Bylaw 20959 containing the new Electricity Franchise Agreement to City Council. The agreement will be advertised and submitted

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to AUC in early December. The Franchise Agreement and bylaw will take effect on March 17, 2025, once the AUC approves the application.

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|---------------------------|--|
| November 8, 2024          | Electricity Franchise Agreement Bylaw to Utility Committee   |
| Week of November 11, 2024 | Electricity Franchise Agreement Bylaw to Council for three readings  |
| Week of November 11, 2024 | Advertisement of the Electricity Franchise Agreement by EDTI immediately following Council approval, as required by AUC                |
| December 4, 2024          | Electricity Franchise Agreement to Alberta Utilities Commission (Application Filing Due Date for agreements that may not be compliant) |
| January 10, 2025          | Natural Gas Franchise Agreement to Alberta Utilities Commission (Application Filing Due Date for compliant agreements)                 |
| March 17, 2025            | Alberta Utilities Commission to complete review of all applications  |

### **Community Insight**

The Franchise Agreement will be advertised for public input prior to implementing.

### **Budget/Financial Implications**

The franchise fee calculation is being amended to comply with the AUC's recommended method, as per the *Utilities Affordability Statutes Amendment Act, 2024*, SA 2024, c8. As discussed in the Discussion, Analysis and Recommendations of Electricity Franchise Fee and the *Utilities Affordability Statutes Amendment Act, 2024*, (Attachment 3), the percentage rate being recommended, 15.5 per cent, is intended to result in a non-material change to the currently approved franchise fee budget in 2025 and 2026.

### **Legal Implications**

Section 45 of the *Municipal Government Act*, and section 139 of the *Electric Utilities Act* authorize a municipality to enter into a franchise agreement with a company providing utility service within the municipality. As a result of the *Utilities Affordability Statutes Amendment Act, 2024*, Section 139 of the *Electric Utilities Act* now requires AUC approval of electric distribution franchise agreements between a municipality and a corporation controlled by the municipality. This legislative change impacts all existing and new Franchise Agreements, and every electric and gas franchise agreement must be approved by the AUC by March 17, 2025, or they will automatically terminate. Although the bylaw does not need to be advertised, the agreement itself must be advertised before it can be entered into. Section 4 of the *Water, Gas and Electric Companies Act* and sections 7, 8, 45 and 46 of the *Municipal Government Act* require Council to consent to a company providing power services within a municipality by passing a bylaw granting that consent.

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### **Attachments**

1. Bylaw 20959 - EPCOR Distribution & Transmission Inc. Electric Distribution System Franchise Agreement
2. Summary of Proposed EDTI Franchise Agreement
3. Discussion, Analysis, and Recommendations of Electricity Franchise Fee and the *Utilities Affordability Statutes Amendment Act, 2024*

### **Others Reviewing the Report**

- M. Plouffe, Chief People Officer and City Solicitor