

## Bylaw 15372

A Bylaw to Approve a New ATCO Gas and Pipelines Ltd. Franchise Agreement

### Recommendation:

That Bylaw 15372 be amended by deleting Section 4) (d) of Schedule "A" to the Bylaw and replacing with the following in its place:

**“(d) Payment of Franchise Fee**  
Immediately upon the Municipality passing third reading of the applicable bylaw approving this Agreement, the Company shall pay the franchise fee amount, billed to each Consumer, to the Municipality on a monthly basis within forty-five (45) days after billing for each Consumer.”

### Purpose

To enter into a new Franchise Agreement between The City of Edmonton and ATCO Gas and Pipelines Ltd. for the distribution of natural gas in Edmonton.

### Readings

The amended Bylaw 15372 is ready for second and third reading. The Natural Gas Distribution Franchise Agreement attached as Schedule "A" to the Bylaw with the recommended amendment has been approved by the Alberta Utilities Commission as required by Section 45 of the *Municipal Government Act*.

### Advertising and Signage

This Bylaw does not need to be advertised.

### Position of Administration

Administration supports the recommendation and this Bylaw.

### Report Summary

This report recommends an amendment and second and third reading for a Bylaw approving a new Natural Gas Distribution Franchise Agreement with ATCO Gas and Pipelines Ltd., which has been approved by the Alberta Utilities Commission.

### Previous Council/Committee Action

At the January 20, 2010, City Council meeting, Bylaw 15372 received first reading.

### Report

In preparing the application for approval to the Alberta Utilities Commission, Administration noticed that Section 4) (d) of the Natural Gas Distribution System Franchise Agreement provided that ATCO was to remit the Franchise Fee in equal monthly payments. According to City records, this payment remittance method has not ever been in place between ATCO and the City. The parties contemplated that ATCO would remit the actual franchise fees collected to the City on a monthly basis as is the current and historical practice.

This error was noted in the submission to the Alberta Utilities Commission and a representation was made that Administration would recommend that Council amend the Bylaw to replace Section 4) (d) of the Natural Gas Distribution System Franchise Agreement with the following provision:

**“(d) Payment of Franchise Fee**  
Immediately upon the Municipality passing third reading

of the applicable bylaw approving this Agreement, the Company shall pay the franchise fee amount, billed to each Consumer, to the Municipality on a monthly basis within forty-five (45) days after billing for each Consumer.”

Notice of the City’s application to the Alberta Utilities Commission was advertised in the Edmonton Journal on May 6, 2010, and no objections were received with respect to the application. On June 8, 2010, the Alberta Utilities Commission released its Decision 2010-261, approving the City’s application for the new Natural Gas Distribution System Franchise Agreement (Attachment 2).

### **Focus Area**

Ensuring Edmonton’s financial sustainability

### **Legal Implications**

Once a franchise agreement has been advertised and approved by the Alberta Utilities Commission, pursuant to Section 45 of the *Municipal Government Act*, the municipality may enter into the agreement.

### **Justification of Recommendation**

The amendment is consistent with the historical and current practice of franchise fee remittance by ATCO for the Natural Gas Distribution System Franchise Agreement.

### **Attachments**

1. Bylaw 15372 and Natural Gas Distribution System Franchise Agreement
2. Alberta Utilities Commission Decision 2010-261

### **Others Reviewing this Report**

- D. H. Edey, General Manager, Corporate Services Department
- R. Boutilier, General Manager, Transportation Department
- R. G. Klassen, General Manager, Planning and Development Department