

Bylaw 50-2020 ATCO Utility Franchise Agreement Signing Bylaw**Report Purpose**

To allow for Council consideration of first reading of a bylaw that authorises the Mayor and Chief Commissioner to sign a Utility Franchise Agreement with ATCO Gas and Pipelines Ltd.

Recommendation

THAT Bylaw 50-2020 ATCO Utility Franchise Agreement Signing Authority Bylaw be given first reading; and

THAT the Mayor and the Chief Commissioner be authorized to initial each page of the Natural Gas Distribution System Franchise Agreement attached as Schedule "A" to enclosure 1 of the November 24, 2020 Legislative and Legal Services department report and to sign, on behalf of the County, the application to the Alberta Utilities Commission for Renewal of a Natural Gas Franchise Agreement.

Our Prioritized Strategic Goals

Goal 2 - Manage, invest and plan for sustainable municipal infrastructure
Governance Requirement

Report

The original agreement between the predecessor of ATCO Gas and Pipelines Ltd. (Northwestern Utilities Limited) and the County was dated January 30, 1956 and granted a franchise for 20 years. This agreement has been renewed four times since then. The current Agreement expired in August of 2016; however, the provisions of the *Municipal Government Act* state that an agreement that is not renewed continues in effect until terminated with notice and approval of the Alberta Utilities Commission (AUC). The July 7, 2010 renewal agreement is therefore still in effect.

On March 20, 2015, The AUC approved a new template agreement that was to be the basis for natural gas distribution franchise agreements with municipalities. The County and ATCO have negotiated and worked together to improve the proposed franchise agreement to ensure that it reflects the status quo in terms of the financial relationship between the parties, and improves the clarity of rights and responsibilities of the parties with respect to application and installation of new infrastructure, re-locates, repairs and maintenance activities.

Under the proposed agreement, the franchise fee would remain at twenty-two percent of fixed delivery charges, i.e., no franchise fees are charged on consumption, allowing for predictability for our residents. ATCO will continue to pay taxes to the County on all of its property within our boundaries. However, to ensure fairness to the utility customers, taxes charged on ATCO's linear land holdings will be paid out of the yearly franchise fees received by the County.

The proposed term of the new agreement is just over 14 years, commencing once the AUC has granted approval and Bylaw 50-2020 has been passed and will expire on December 31, 2035. The minimum term of the agreement under the AUC approved template is 10 years and the Municipal Government Act (MGA) allows for a term of up to 20 years.

The proposed Franchise Agreement covers the majority of the Urban Services Area (excepting areas identified for future growth), as set out in Schedule C to the agreement. If the County wished to have the franchise arrangement extended to future growth areas, it would be necessary to amend the agreement.

Council and Committee History

June 22, 2010	Council passed Bylaw 55-2009, renewing the Natural Gas Franchise Agreement (the Agreement was signed May 20, 2010)
November 10, 2009	Council gave first reading to Bylaw 55-2009 and the bylaw was subsequently advertised and approved by the AUC
August 27, 1996	Council passed Bylaw 15-95, approving execution of a Natural Gas Franchise Agreement with ATCO Gas and Pipelines Ltd. For the Urban Services Area
March 6, 1990	Council passed Bylaw 13-89, authorizing the amendment of a Natural Gas Franchise Agreement with Northwestern Utilities Ltd.
June 12, 1978	Council passed Bylaw 315-77, authorizing a Franchise Agreement with Northwestern Utilities
January 25, 1956	Council passed Bylaw 259-55, authorizing a Franchise Agreement with Northwestern Utilities Ltd.

Other Impacts

Policy: n/a

Legislative/Legal: Section 45 of the *Municipal Government Act* gives Council the right to enter into an exclusive or non-exclusive agreement to provide a utility service in all or part of Strathcona County for not more than 20 years. Section 45.1 of the *Municipal Government Act* prohibits an agreement that grants an exclusive right to provide to customers in all or any part of the municipality the functions or services that retailers are permitted to provide under the *Electric Utilities Act* or the regulations under the Act.

Prior to entering into the agreement, the Alberta Utilities Commission (AUC) must approve it and the proposed bylaw or resolution approving the agreement must be advertised in accordance with Section 606 of the *Municipal Government Act*. Advertising gives rise to the right to petition against the bylaw or resolution in accordance with the procedures in Section 231 of the *Municipal Government Act*.

Interdepartmental: Planning and Development Services and Legislative and Legal Services

Master Plan/Framework: n/a

Communication Plan

ATCO will provide the County with the information for the Notice of Application to the AUC. The County will advertise the notice in the Sherwood Park News as required under MGA section 606. ATCO will prepare the submission for approval to the AUC, with a copy to the County. The AUC will conduct a hearing on the application. If AUC approval is received after the hearing, Bylaw 50-2020 will be brought back to Council for second and third readings.

Enclosure

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