

Bylaw 31-2025 Electric Distribution System Franchise Agreement Bylaw**Report Purpose**

To allow for Council consideration of three readings of a bylaw to authorize the approval of an Electric Distribution System Franchise Agreement with FortisAlberta Inc.

Recommendation

THAT Bylaw 31-2025 Electric Distribution System Franchise Agreement Bylaw be given first reading;

THAT Bylaw 31-2025 be given second reading.

THAT Bylaw 31-2025 be considered for third reading.

THAT Bylaw 31-2025 be given third reading.

Our Strategic Goals

Goal 3 - Responsible Development

Goal 3 Priority - Growth and development that prioritizes community well-being and economic benefits

Report

In 1955, Strathcona County entered into an electric distribution franchise agreement with Calgary Power Ltd. This franchise agreement included exclusivity for a 10-year term, and encompassed certain portions of, at the time, the Municipal District of Strathcona No. 83. Several renewals were subsequently entered into, with Calgary Power Ltd. changing their name to TransAlta Utilities Corporation in 1981. The last franchise agreement renewal occurred in 1987, between Strathcona County and TransAlta for another 10-year term. The agreement was not subsequently renewed again. Although the current franchise agreement is expired, the provisions of the *Municipal Government Act (MGA)* state that an agreement that is not renewed continues in effect until terminated with notice and approval of the Alberta Utilities Commission (AUC). The 1987 franchise agreement is therefore still in effect.

In 2012, the Alberta Urban Municipalities Association, the AUC, ATCO and FortisAlberta Inc. negotiated a standard form agreement for electric distribution system franchises between the electricity providers and municipalities. Fifty-six municipalities participated in the template agreement consultation process. The standard form agreement was found to meet the public interest and was approved for use in a hearing before the AUC in September 2012 (Order 2012-255).

In 2016, the standard form agreement was brought forward for Council's consideration. In addition to the franchise agreement bylaw, the standard form agreement requires municipalities to concurrently pass a bylaw prohibiting other persons from providing electric distribution service within the same service area. The service area boundary in the 2016 agreement aligned with the Urban Service Area boundary, which overlapped a small portion of an electric distribution service that was owned and operated by a Rural Electrification Association (REA). In consideration of the existing REA, the bylaw did not pass at that time.

Since then, the County and FortisAlberta Inc. have worked together to amend the service area to exclude both the Bremner and West of 21 ACP areas, thereby eliminating any impact to existing REAs. Any future increase to the Municipal Service Area may occur through the replacement of Schedule 'D' within the franchise agreement (Enclosure 2), subject to a minimum of 6 months' notice and acceptance by FortisAlberta Inc.

Although the franchise agreement allows the municipality to collect franchise fees up to a maximum of 20%, the fee is set to 0% in the proposed franchise agreement. Council is able to adjust the franchise fee once annually, through written notification to FortisAlberta Inc. and subject to AUC approval. If franchise fees are implemented, they are charged as a percent of fixed delivery charges, i.e., no franchise fees are charged on consumption, allowing for predictability for residents. FortisAlberta Inc. will continue to pay taxes to the County on all of its property within our boundaries.

All new franchise agreements or changes to a franchise agreement, whether by amendment or renewal, must be approved by the AUC.

The proposed term of the new agreement is 20 years, commencing on the later of January 1, 2026 or once the AUC has granted approval for the agreement and Bylaw 31-2025 has been passed. The minimum term of the agreement under the AUC approved template is 10 years with a maximum term of 20 years as allowed under the MGA.

Council and Committee History

April 10, 2018	A report was discussed in Closed Session.
November 29, 2016	THAT Administration notify FortisAlberta Inc. that Council will not be proceeding with third reading of Bylaw 31-2016 and that pursuant to the terms of the 1987 Electric Franchise Renewal Agreement with TransAlta Utilities Corporation, the area of the October 25, 2016 expansion of the Sherwood Park Urban Service Area under Bylaw 15-2016 (to include Bremner) is not to be included under that agreement. THAT Administration work with FortisAlberta Inc. to negotiate amendments to the proposed electric distribution franchise agreement appropriate for our specialized municipality.
July 19, 2016	Council gave first and second reading to Bylaw 31-2016, a bylaw that proposes to enter into an Electric Distribution Franchise Agreement with FortisAlberta Inc.
January 12, 1988	Council gave second and third reading to Bylaw 25-87, the most recent bylaw authorizing the execution of the Electric Franchise Renewal Agreement with TransAlta Utilities Corporation.
June 30, 1987	Council gave first reading to Bylaw 25-87.
January 25, 1956	Council gave second and third reading to Bylaw 260, the first bylaw

authorizing the execution of an Electric Franchise Agreement with Calgary Power Ltd. for certain portions of the Municipal District of Strathcona No. 83.

December 12, 1955 Council gave first reading to Bylaw 260.

Other Impacts

Policy: n/a

Legislative/Legal: Section 45 of the *MGA* 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 *MGA* 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 AUC must approve it and the proposed bylaw or resolution approving the agreement must be advertised in accordance with Section 606 of the *MGA*. Advertising gives rise to the right to petition against the bylaw or resolution in accordance with the procedures in Section 231 of the *MGA*.

Financial/Budget: A franchise agreement provides a mechanism to collect franchise fee revenue, although none is proposed to be collected at this time.

Interdepartmental: Planning and Development Services and Legislative, Legal and Procurement

Master Plan/Framework: n/a

Communication Plan

Communication with the public by way of newspaper advertisement for Bylaw 31-2025 and as notice of application to be filed for approval with the AUC, as required under *MGA* Section 606.

Following approval of Bylaw 31-2025, FortisAlberta Inc. 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 31-2025 will come into effect January 1, 2026.

Enclosures

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| 1 | Bylaw 31-2025 Electric Distribution System Franchise Agreement Bylaw |
| 2 | Electric Distribution System Franchise Agreement |