Approaches for Determining Local Access Fees

RECOMMENDATION:

That the Executive Committee recommend that Council:

1. Receive this report for the corporate record.
2. Direct that any closed meeting discussions and attachments be held confidential pursuant to Section 24 (Advice from officials) of the Freedom of Information and Protection of Privacy Act to be reviewed by 2028 January 31.

RECOMMENDATIONS OF THE EXECUTIVE COMMITTEE, 2023 JANUARY 31:

That Council:

1. Receive this report for the Corporate Record;
2. Approve the recommendation in Confidential distribution;
3. Direct that any closed meeting discussions, the Confidential presentation, Confidential distribution, and attachments be held confidential pursuant to Section 24 (Advice from officials) of the *Freedom of Information and Protection of Privacy Act* to be reviewed by 2028 January 31; and
4. Direct that notwithstanding recommendations 3, the Confidential distribution may be released to the Executive Leadership Team, to be further shared with Administration only where required to support next steps.

Opposition to Recommendation 2: Councillor Chabot

HIGHLIGHTS

- Franchise Fees is a common term for charges that are mostly called the Local Access Fee on electricity bills and the Municipal Consent and Access Fee on natural gas bills. In Alberta, they are municipal charges applied to electricity, natural gas, and water bills. The legislative authority for these charges is in section 360 of the Municipal Government Act (MGA).
- Under the MGA, a franchise fee is allowed to be collected by the utility and remitted to the municipality in lieu of payments for property taxes and municipal right-of-way access fees. Cities give utilities permission to build and operate power lines, gas lines and water lines through City-owned property. The utilities reimburse the city for that service through the collection of fees from its customers. Municipal governments negotiate franchise fee agreements with utilities to meet the needs of the municipality and the utility serving the community. Most Alberta municipalities collect utility franchise fees.
- **Why is this important to Calgarians?** Energy bills have gone up significantly in line with inflation. Calgarians want assurances that The City did not make opportunistic Local Access Fee changes that take advantage of high energy prices.
- **Why does this matter?** Calgarians would benefit from an awareness that The City of Calgary's franchise fee rates and methodology have been unchanged since 1974.
- The City's revenue-based (or cost-based) approach to franchise fee determination is the most prevalent in Alberta.

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- The City of Calgary's local access fee revenue is strongly correlated with the local economy, especially energy market activity. In recent years, The City of Calgary endured reductions in real terms when energy prices declined and then stayed low.
- In 2022, The City of Calgary recovered some of that reduction as a natural hedge against significant increases in The City's own energy-related costs. The recent increase will help The City to catch up and cover significant cost increases.
- Franchise fees are an essential source of City general revenue that assists The City in holding the line on property taxes.
- The City has long term natural gas and electricity franchise agreements.
- Background and Previous Council Direction is included as Attachment 1 (Confidential).

DISCUSSION

Background and Motivation for Franchise or Municipal Consent and Access Agreements

Utility providers often rely on land held by others to operate infrastructure. For example, natural gas providers use underground pipelines, while electricity distribution utilities use above-ground wires. When the land on which they locate utility infrastructure is privately owned land, they pay rent. Similarly, municipalities can charge utility providers for accessing publicly owned lands to locate utility infrastructure.
Utility providers are typically natural monopolies because they have high infrastructure expenses and costly barriers to entry. As such, the current regulation of utilities often grants utilities an exclusive right to provide a utility service within a municipality or service area. When private sector entities give exclusive rights to other entities, they often do so through franchise agreements. Similarly, a municipality can grant an exclusive franchise to a utility provider for a particular utility service.

The Rationale for Local Access, Franchise, or Municipal Consent and Access Fees

As a result, large Alberta municipalities have franchise (or municipal consent and access) agreements with utility providers for delivering electricity, natural gas, and water services. These agreements document the charges for using public lands to operate infrastructure and outline the conditions of use. The charges are local access, franchise, or municipal consent and access agreement fees. The fees are compensation for the following:

- Direct costs to the municipality.
- Restrictions on planning and development due to utility rights of way.
- Inherent risks related to utility access.

Local access, municipal consent and access, or franchise fees have a broad base. That's because all beneficiaries of utility services pay the fees. That's unlike property taxes, where some beneficiaries of municipal services are 'exempt' from paying property taxes. The customer base for Utility providers includes people, businesses, agencies, all levels of government and others who use electricity, gas, or water.

Calculating Local Access, Franchise, or Municipal Consent and Access Fees

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The Municipal Government Act (MGA) is the enabling legislation. Through the MGA, municipalities can charge what they believe is fair for the local situation. Section 360 of the MGA provides the authority. Consequently, the fees and the basis for calculating them differ across Alberta municipalities.

For the City of Calgary, the fees are a share of utility revenue that reflects the underlying commodity's 'price' and 'quantity' consumed. For the City of Edmonton, electricity franchise fees are a fixed charge relative to the 'quantity' of the commodity consumed. Both approaches are permissible through the legislation. For example, Edmonton uses a 35 per cent share of gross revenue for its natural gas franchise fees.

For both the revenue and consumption-only approaches, customers have some control over the amount they pay based on the amount they consume. Energy efficiency improvements that reduce greenhouse gases also result in a decrease in franchise fees under both methods. Calgary has applied the revenue basis and an 11.11 per cent rate for natural gas and electricity since 1974.

Attachment 2 (Confidential) summarizes the different approaches using information for Alberta's 15 most populous municipalities.

Overarching Pros and Cons of Alternative Approaches

At its core, municipalities must consider a trade-off between stability and responsiveness to local economic conditions. The consumption-based method used by the City of Edmonton for electricity is more predictable because significant year-over-year changes in consumption are unusual. It favours stability. On the other hand, the revenue approach used by The City of Calgary is more responsive to changes in local economic conditions. Whenever the local economy experiences a commodity price increase, some of that increase trickles into general revenue through these fees. It provides a natural hedge against higher prices paid by the municipality as a significant consumer of energy commodities.

The reverse is also true. The consumption-based method used by the City of Edmonton for electricity does not allow the municipality to benefit from commodity price increases, nor does it provide a natural hedge against commodity price swings. Similarly, the revenue method used by The City of Calgary is less stable because it leads to more fee revenue when commodity costs are higher and less when they are lower. Ultimately, the decision to proceed with either choice reflects municipal government policy preferences.

In Calgary, ratepayers are seeing higher costs recently but benefitted from lower fees between 2015 and 2020 due to low commodity costs.

EXTERNAL ENGAGEMENT AND COMMUNICATION

- ☐ Public engagement was undertaken
- ☐ Public/interested parties were informed
- ☐ Dialogue with interested parties was undertaken

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☒ Public communication or engagement was not required

IMPLICATIONS

Social
One of the underlying considerations related to the introduction of Calgary's local access fees in 1939, through Bylaw 3232, was to address unequal energy consumption across customer groups. Higher consumption for the more economically advantaged means more franchise fees. In line with The City's Social Wellbeing Policy and equity considerations, The City's current approach acknowledges differences in the level of the underlying natural gas or electricity commodity consumed locally.

Environmental
Most of the underlying environmental impacts associated with the local access fees get reflected in the reliance on natural gas (rather than coal) as a source for heating. There are also efforts underway by the provincial government to clean the electricity grid. These efforts align with The City's newly developed Climate Strategy and Actions Plans. Also, franchise fees incentivize energy efficiency improvements that reduce greenhouse gases.

Economic
The establishment of reasonable local access fee rates aligns with The City's economic resilience pillar. It focuses on ensuring robust diversity of funding sources for City programs and services. It also supports local competitiveness and attractiveness to talent and investment by keeping The City of Calgary's franchise fee rates low.

Service and Financial Implications
Other: The 2021 local access revenue received through natural gas (ATCO Gas) and electricity (ENMAX) providers was $230.7 million. The City's local access fee for electricity will increase from $165.3 million in 2021 to a little over $220 million in 2022, in line with increases across Alberta municipalities.

RISK

There are no risks associated with this report.

ATTACHMENTS

1. CONFIDENTIAL - Previous Council Direction, Background
2. CONFIDENTIAL - Approaches to Determining Natural Gas and Electricity Local Access Fees in Alberta's 15 Largest Municipalities
3. **CONFIDENTIAL – Distribution Received at Committee**

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform

Approaches for Determining Local Access Fees

Carla Male	Corporate Planning & Financial Services	Approve