

## THE WAY WE FINANCE

# MUNICIPAL FRANCHISE FEES WHITE PAPER

## INTRODUCTION

Municipalities as a local government provide a wide range of front line services to the public. Municipalities also facilitate the provision of services to the public by allowing access to municipally owned lands for utility infrastructure and by ensuring the delivery of utility services through exclusive franchise agreements with utility providers. Every day, citizens interact with their local municipality: they may get up in the morning in a house heated by natural gas and turn on the tap or the lights; when they leave the house they walk on municipal sidewalks or drive on municipal roads; they may stop at a municipal park or take a fitness class at a municipal recreation centre; their garbage and recycling is picked up by municipal workers.

It is the municipality's role to provide and fund the services expected by its citizens. A very important consideration in funding services is who pays what and why. Property taxes are the most significant revenue source for municipalities. The amount of property tax levied is determined first by calculating the cost for all of the programs and services the municipality provides and then subtracting the total amount of all non-property tax revenues. The amount left is what is to be funded through property tax. In general, the share of the total property tax that each property tax payer is responsible for is based on the market value or regulated assessment of their property. In that way, it is a general tax based on wealth as measured by the value of property and is a good way to pay for programs and services that benefit the broad public or that are difficult to apportion directly to specific users, such as roads and parks.

When municipalities provide programs or services where those programs or services can be directly related to specific users, it is appropriate to charge users directly. Municipalities provide utility providers with access to city land on which to locate utility infrastructure such as pipelines for natural gas or wires for electricity distribution. When utility providers run infrastructure on privately owned land, they have to pay rent. It is the same for publicly owned infrastructure.

Utility providers are also granted exclusive right to provide a utility service within a municipality. In other words, they are given an exclusive franchise to provide a particular utility service. Franchise agreements are common in the public utility sector, particularly with respect to the delivery of electricity, gas and water services.

Charges for public land and conditions for use of public land are documented in franchise agreements and the charges are referred to as franchise fees. The fees compensate the City for direct costs, restrictions on planning and development due to utility rights of way, as well as inherent risks related to utility access. In some municipalities, franchise fees are charged in lieu of municipal property taxes.

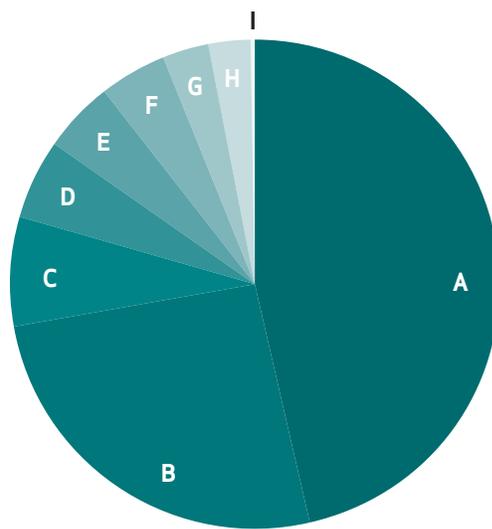
Utility providers then charge these costs to their customers – the people, businesses, agencies and others who use electricity, gas, or water. The franchise fees are included in the costs apportioned to all utility customers. This is different than property taxes, where not all of the beneficiaries of municipal services pay property taxes. In the City of Edmonton, there are currently over 3,000 non-City owned properties, such as schools, hospitals, churches and other specific not-for-profits, with property valued at approximately \$10 billion exempted from paying property taxes. In the absence of franchise agreements and the fees charged to utility providers by the City for the use of its property, the revenue forgone would need to be made up by increasing property taxes. This would mean that not all utility customers that benefit from utility providers ability to access public lands would pay a cost associated with that benefit. It also would mean that the basis for paying would be totally different. For example, the value associated with the use of public lands through the franchise fees agreement for electricity is ultimately charged to each customer based on the amount of electricity consumed. If that revenue requirement was charged to the tax base instead, it would be based on the assessed value of property with different tax rates for residential, other residential and non-residential property. So not everyone that currently pays under a franchise agreement would continue to pay if the revenue came from taxation and the basis on which the revenue is generated would be significantly different.

Franchise fees and the basis for calculating them differ for municipalities across Alberta. The *Municipal Government Act*, which is the legislation that enables municipalities to charge franchise fees, allows a municipality to charge what it believes is fair for the local situation. In the City of Edmonton, this is accomplished in a very transparent manner. The amount of revenue to be generated through franchise fees is part of the budget that City Council deliberates in public every year. The franchise fees, sometimes referred to as local access fees, are also shown separately on utility bills.

The annual revenues generated represent about 5.3% of the City's 2013 annual consolidated operating revenues or approximately \$127 million. This percentage has remained relatively constant over the last five years, ranging between 5.3 and 5.7%.

**OPERATIONS - SOURCE OF REVENUE**

(millions of \$)



Revenue	\$	%
■ A Taxation	1,115.9	46.0
■ B User fees and sale of goods and services	632.4	26.1
■ C Subsidiary operations - EPCOR	175.5	7.3
■ D Franchise fees	<b>127.3</b>	<b>5.3</b>
■ E Government transfers - operating	119.4	4.9
■ F Investment earnings	104.3	4.3
■ G Fines and penalties	78.5	3.2
■ H Licenses and permits	68.7	2.8
■ I Developer and customer contributions - operating	2.4	0.1
	<b>2,424.4</b>	<b>100.0</b>

Figure 1

## CITY OF EDMONTON FRANCHISE FEES

### NATURAL GAS FRANCHISE FEE – ATCO GAS AND PIPELINES LTD.

The City first entered into a franchise agreement on November 16, 1915 with The Northern Alberta Natural Gas Development Company, Limited, based on a decisive vote of citizens at the time, for the delivery of natural gas to the citizens of Edmonton. The franchise agreement has been updated many times over the years, with the respective natural gas providers. The essence of the current franchise agreement with ATCO Gas and Pipelines Ltd. is the granting of exclusive rights to ATCO Gas and Pipelines Ltd. within the City of Edmonton to construct, operate, and maintain the gas distribution system together with the right to use and occupy portions of City Lands which have been designated for such use. Under the current agreement, the franchise fees are not reduced by property taxes, which are levied separately.

The franchise agreement was amended in July of 2010 and is valid for a period of 20 years, which is the maximum allowed for under the *Municipal Government Act*. The amended agreement required approval by the Alberta Utilities Commission, pursuant to section 45 of the *Municipal Government Act*, which was granted on June 8, 2010. Edmonton City Council approved the amended franchise agreement, through Bylaw 15372, on July 21, 2010.

The methodology agreed to for the calculation of the franchise fee is based upon a percentage of the delivery revenue generated by providing natural gas services. This calculation excludes the cost of the commodity, thus providing for less volatility related to the franchise fee revenue and more certainty for the customer. The franchise fee rate as approved by City Council is currently 32.9%. The agreement allows for a franchise fee of up to 35.0%, with any rate increase beyond that level requiring the approval of the Alberta Utilities Commission. The maximum 35.0% rate is consistent with a template developed collaboratively by the gas utility companies and the Alberta Urban Municipalities Association in 2003. It is intended to provide flexibility for communities to adjust franchise fees within a range, without undertaking a full Alberta Utilities Commission franchise application and administrative process. The template was developed following guidelines set out in a decision of the Alberta Energy Utilities Board (the predecessor to the Alberta Utilities Commission), including the threshold rate of 35.0%.

In looking at the last ten years, the rate was 32% for the period from 2004 to 2009, dropped to 28.5% in 2010 with the change to the latest agreement which provides for municipal taxes independent of the franchise fee, and the current percentage of 32.9% has been in place since 2011.

The City projects receiving \$56.5 million in revenues related to the natural gas franchise fee for 2014. The table below provides a 10 year history and a 3 year projection of the revenues from the natural gas franchise fee.

**10 YEAR HISTORY AND A 3 YEAR PROJECTION FOR NATURAL GAS FRANCHISE FEES**

(millions of \$)

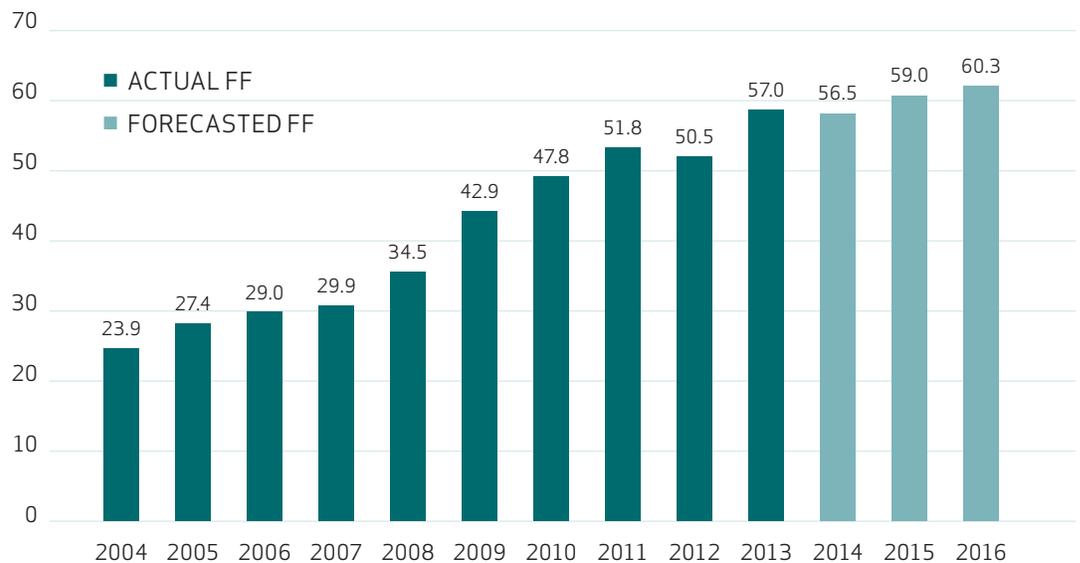


Figure 2

**ELECTRIC POWER DISTRIBUTION FRANCHISE FEE – EPCOR DISTRIBUTION INC.**

With the incorporation of the municipal power operations effective January 1, 1996, the City of Edmonton and EPCOR Distribution Inc. (now EPCOR Distribution & Transmission Inc.) entered into a franchise agreement related to the distribution of electricity. Prior to that time, the utility was owned and operated by the City and was charged an annual franchise fee calculated at 9.0% of qualifying revenues.

Amended on January 1, 2004, with a term of 20 years, the current franchise agreement grants EPCOR Distribution & Transmission Inc. the exclusive right and license to use the City of Edmonton’s rights of way to construct, install, maintain, operate, repair, replace, extend and remove electric power distribution assets necessary to provide electric power utility services and the exclusive right to distribute electric power within the City of Edmonton. In exchange for these rights, EPCOR Distribution & Transmission Inc. pays a franchise fee to the City. Electric power distribution franchise fees are not considered to be in lieu of property taxes, which are levied separately.

The basis for calculation set out in the City’s franchise agreement is unique in the province and is intended to provide sustainable, predictable revenue with minimal risk of volatility to the City. The calculation applies inflation and growth factors to the prior year franchise fee revenue (prior year revenue times inflation factor times growth factor equals budgeted power franchise fee). Inflation is defined by the year over year change in the August Statistics Canada Consumer Price Index for Edmonton. The growth factor provided for in the agreement is 1.5%. However, the City of Edmonton maintains the option of setting a different electric power distribution franchise fee revenue requirement with notification to EPCOR Distribution & Transmission Inc. by October 1st for the subsequent year. For instance, this was done in 2009 to adjust for the difference in the estimated inflation and growth factors built into the agreement in comparison to the actual experience. Just for context, population statistics available for the period of 2005 to 2012 show population growth for Edmonton totaling 14.7% or average annual growth of 2.1%.

The revenue amount is converted into a rate per kilowatt hour based upon an estimate of total kilowatt hours for the year. Any differences between the actual franchise fee amounts estimated and what is collected is made up through an adjustment to the subsequent year's rate.

The City projects receiving \$54.9 million in revenues related to the electric power distribution franchise fee for 2014. The table below provides a 10 year history and a 3 year projection of the electric power distribution franchise fee.

**10 YEAR HISTORY AND A 3 YEAR PROJECTION FOR ELECTRIC POWER DISTRIBUTION FRANCHISE FEES**  
(millions of \$)

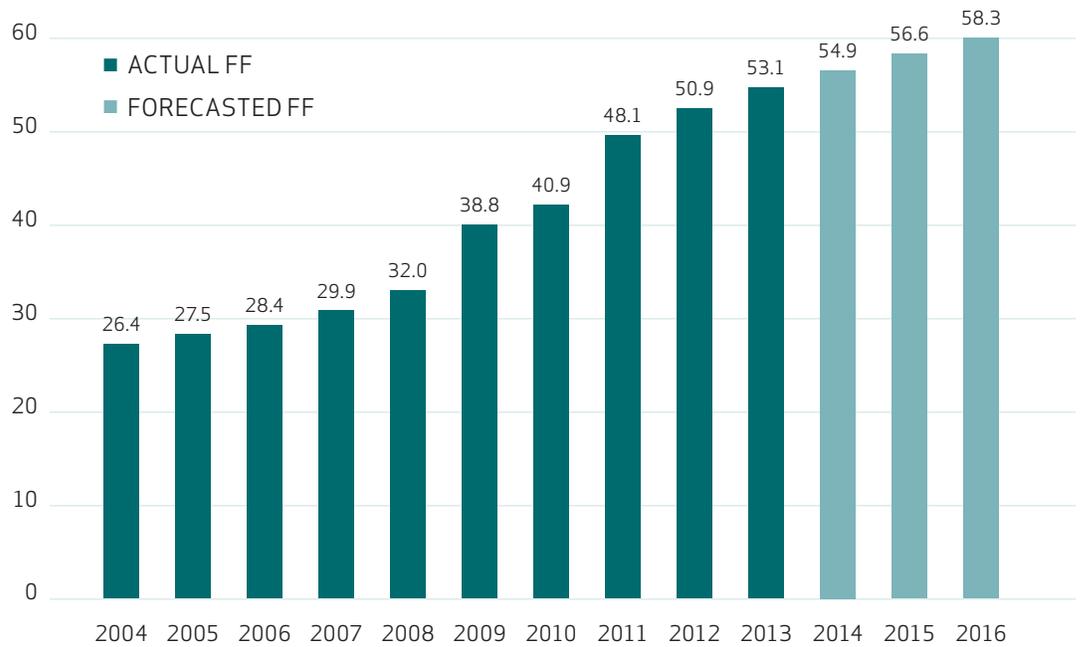


Figure 3

**WATER FRANCHISE FEE – EPCOR WATER SERVICES INC.**

The City and EPCOR Water Services Inc. have had a franchise agreement related to the provision of water services within the City of Edmonton since January 1, 1999. Prior to that time, the utility was owned and operated by the City and was charged an annual franchise fee calculated at 8.0% of qualifying revenues. The agreement in 1999 included a franchise fee of 7.6% of eligible revenues based upon achieving a revenue target at the time. Effective April 1, 2010, the rate was amended to 8.0%, consistent with rates utilized for the drainage and wastewater utilities.

The nature of the franchise agreement with EPCOR Water Services Inc. relates to the granting of exclusive rights within the municipality to construct, install, maintain, operate, repair, replace, extend and remove water related assets for the purpose of providing water services within the City along with the exclusive right to use and occupy portions of City lands which have been designated for such use. The agreement also provides EPCOR Water Services Inc. with the exclusive rights to distribute water to customers in the City of Edmonton. In exchange for these rights, EPCOR Water Services Inc. pays the City a franchise fee.

The water franchise fee is calculated at 8.0% of all gross revenues related to EPCOR Water Services Inc. water business within the City of Edmonton. The actual franchise fee payable to the City is reduced by the municipal portion of property taxes payable by EPCOR Water Services Inc. for water related assets. In 2013, the municipal taxes offset against the franchise fee amounted to approximately \$150,000 as most water assets are not subject to property taxes.

The City projects receiving \$12.9 million in revenues related to the water services distribution franchise fee for 2014, net of municipal taxes. The table below provides a 10 year history and a 3 year projection of the net water franchise fee.

**10 YEAR HISTORY AND A 3 YEAR PROJECTION FOR WATER FRANCHISE FEES**

(millions of \$)

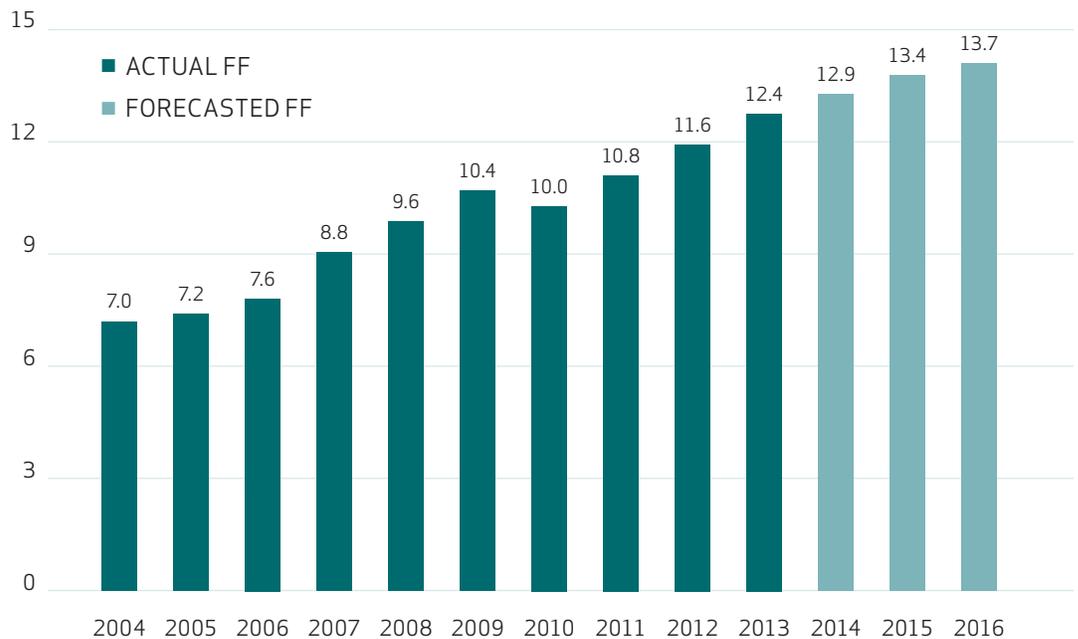


Figure 4

**WASTEWATER FRANCHISE FEE – EPCOR WATER SERVICES INC.**

On March 31, 2009, the City of Edmonton transferred the Gold Bar Wastewater Treatment Plant assets and operations to EPCOR Water Services Inc. Prior to that time, the Gold Bar Wastewater Treatment Plant and its operation were part of the Drainage Services utility owned and operated by the City, and were charged an annual franchise fee calculated at 8.0% of qualifying revenues. The City of Edmonton continues to own and operate the wastewater collection and transmission system as the City of Edmonton Drainage Services Utility.

In a manner consistent with water services, the City and EPCOR Water Services Inc. entered into a franchise agreement to grant exclusive rights to provide wastewater treatment services within the City. The wastewater franchise fee is calculated at 8.0% of all gross revenues related to EPCOR Water Services Inc. wastewater business within the City of Edmonton. The actual franchise fee payable to the City is reduced by the municipal portion of property taxes payable by EPCOR Water Services Inc. for wastewater related assets. In 2013 the municipal taxes offset against the franchise fee amounted to approximately \$359,000 as most wastewater assets are not subject to property taxes.

The City projects receiving \$5.2 million in revenues related to the wastewater treatment franchise fee for 2014, net of municipal taxes. The table below provides a five year history and a 3 year projection of the net wastewater franchise fee.

**5 YEAR HISTORY AND A 3 YEAR PROJECTION FOR WASTEWATER FRANCHISE FEES**  
 (millions of \$)

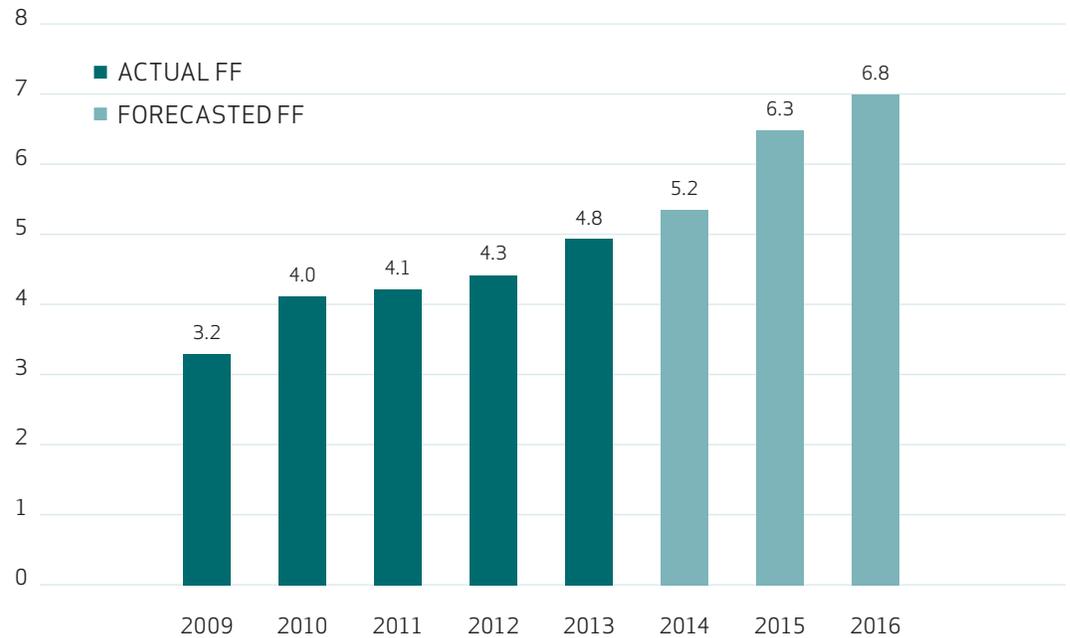


Figure 5

**DRAINAGE LOCAL ACCESS FEE – CITY OF EDMONTON DRAINAGE SERVICES UTILITY**

City Policy C304C – *Drainage Services Utility Fiscal Policy – Sanitary & Land (Stormwater) Utilities*, subjects both utilities to a local access fee for the use of public rights of way and in lieu of property taxes with the fee to be determined by City Council. Currently, a franchise fee is only charged to the Sanitary Drainage Utility at 8.0% of qualifying revenue. The Drainage assets are not subject to municipal property taxes.

The City projects receiving \$8.4 million in revenues related to the local access fee for the Sanitary Drainage Utility for 2014. The following table provides a 10 year history and a 3 year projection of the local access fee. The history of revenues shown reflects a decrease in local access fee revenues from 2008 to 2009 as a result of the transfer of Gold Bar Wastewater Treatment assets to EPCOR Water Services Inc., effective March 31, 2009.

### 10 YEAR HISTORY AND A 3 YEAR PROJECTION FOR DRAINAGE SERVICES LOCAL ACCESS FEES (millions of \$)

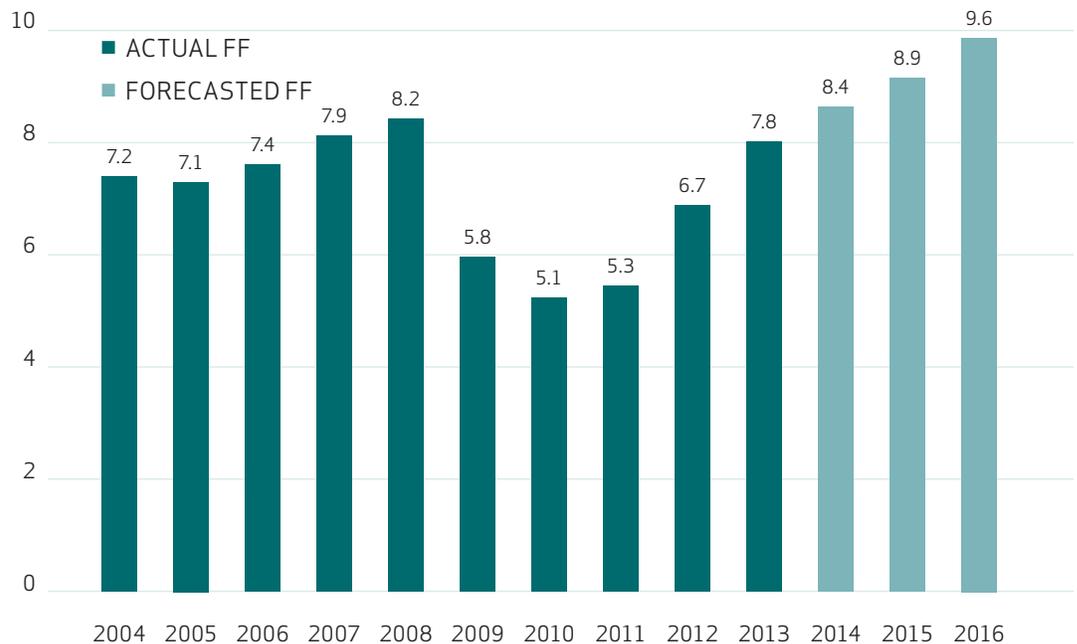


Figure 6

#### CITY OF EDMONTON WASTE MANAGEMENT UTILITY

The City of Edmonton's waste management utility is governed in part by City Policy C558 – *Waste Management Utility Fiscal Policy*. Policy C558 exempts the waste management utility from a local access fee. The Utility does not have exclusive rights to the waste collection and disposal services in the City of Edmonton as there are many private sector waste collection companies operating in the City. It also does not have exclusive use of City rights of way for purposes of access, namely, the roadway network for its collection vehicles.

### METHODOLOGY CONSIDERATIONS

As stated in the introduction to this paper, franchise fees and the basis for calculating them differ for municipalities across Alberta. The *Municipal Government Act*, which is the legislation that enables municipalities to charge franchise fees, allows a municipality to charge what it believes is fair for the local situation.

For the electric power distribution franchise fees, the City of Edmonton utilizes a methodology whereby customers pay a fee equal to the franchise fee rate per kilowatt hour times their consumption in kilowatt hours. The rate is calculated based on attaining the same revenue as the prior year incremented for inflation and growth. Under this methodology, all customers pay a uniform rate with high energy consumers paying a larger proportion of the total franchise fees than small energy consumers. To the extent that users can influence volumes, this consumption basis of calculation supports energy efficiency and conservation efforts. The City of Edmonton is the only municipality in Alberta to use this methodology. Many municipalities utilize a combination of distribution and transmission charges to the customer or just the distribution charges, as the basis for assessing the franchise fee. The City of Calgary, for example, utilizes a “total bill” methodology that includes all costs related to electricity including the underlying price of the commodity.

For natural gas franchise fees a variety of methodologies are utilized to calculate the fee. The City of Edmonton calculates the franchise fee as a percentage of delivery revenue to provide natural gas services excluding the cost of the commodity. This approach is different than the methodology used for the calculation of electric power distribution franchise fees. The City believes that given the natural gas market, this methodology of calculating franchise fees provides for less volatility for both the ultimate natural gas customer and the City. Some municipalities, like the City of Calgary for example, also include the underlying price of the commodity in the gas franchise fee calculation. Given the fluctuations in the pricing of natural gas, this can cause greater volatility in the fees.

The City of Edmonton budgets franchise fees for each utility individually and City Council considers the total revenue from franchise fees when approving the annual budget. This approach allows Edmonton City Council to determine what it considers to be a fair amount to be charged to utility providers for the franchise rights provided, including the use of public land.

## LEGISLATED AUTHORITY

The authority to enter into franchise agreements is provided to municipalities through the *Municipal Government Act* of Alberta. Specifically, section 45 of the MGA gives the City the authority to grant rights to third parties to provide utility service within the municipality. Also, section 61 of the *Municipal Government Act* gives the City the authority to grant rights to third parties with respect to the City's property and to charge fees for the use by third parties of its property. Finally, under section 360 of the *Municipal Government Act*, municipalities have the authority to enter into a tax agreement with an operator of a public utility. The tax agreement may provide for an annual payment amount by the utility to the municipality, calculated as provided in the agreement, in place of property taxes otherwise payable under the *Municipal Government Act* and other fees and charges otherwise owing to the municipality, such as the franchise fee. The City has not entered into such tax agreements.

The City has the discretion to determine the methodology for the setting of the franchise fee and the franchise fee amount in its franchise agreements. However, pursuant to section 45(3) of the *Municipal Government Act*, unless the franchise agreement is between the City and a subsidiary of the City (such as EPCOR), before the franchise agreement is made, amended or renewed, the agreement, amendment or renewal must be advertised and be approved by the Alberta Utilities Commission. There is not one common methodology for the setting of the franchise fee nor is there a common rate applied. The City currently has franchise fee agreements related to natural gas, electricity, water, wastewater, and drainage services that articulate the methodology for calculating the franchise fee.

The *Municipal Government Act* provides the City of Edmonton with the enabling legislation to enter into agreements to grant a right to provide a utility service. Specifically, the following sections of the Act state:

- S.45 (1) A council may, by agreement, grant a right, exclusive or otherwise, to a person to provide a utility service in all or part of the municipality, for not more than 20 years.
- S.45 (2) The agreement may grant a right, exclusive or otherwise, to use the municipality's property, including property under the direction, control and management of the municipality, for the construction, operation and management of a public utility in the municipality for not more than 20 years.

- S. 45 (3) Before the agreement is made, amended or renewed, the agreement, amendment or renewal must
  - a) be advertised, and
  - b) be approved by the Alberta Utilities Commission.
- S.45 (5) Subsection (3) does not apply to an agreement to provide a utility service between a council and a subsidiary or the municipality within the meaning of section 1(3) of the Electric Utilities Act.
- S.61 (1) A municipality may grant rights, exclusive or otherwise, with respect to its property, including property under the direction, control and management of the municipality.
- S.61 (2) A municipality may charge fees, tolls and charges for the use of its property, including property under the direction, control and management of the municipality.

The *Municipal Government Act* also provides for a municipality to enter into a tax agreement with an operator of a public utility. Specifically the Act states:

- S.360 (1) A council may make a tax agreement with an operator of a public utility or of linear property who occupies the municipality's property, including property under the direction, control and management of the municipality.

The remainder of section 360 articulates the basis for which the fee related to the tax agreement is calculated.

For purposes of the franchise fees with ATCO Gas and Pipelines Ltd., EPCOR Distribution & Transmission Inc., and EPCOR Water Services Inc., the City has chosen to enter into franchise agreements based upon sections 45 and 61 of the MGA. The local access fee that is collected with respect to the drainage services utility is prescribed by the City's own *Utility Fiscal Policy* and determined by resolution of City Council.

## ALBERTA LEGISLATURE PRIVATE MEMBERS BILL 203

Notwithstanding the enabling legislation established by the Provincial Government, in recent years members of the legislative assembly have taken some interest in the franchise activities of municipalities in the province. This interest was elevated in 2010 when a private member's Bill 203 was introduced, with a purpose to establish a standardized formula or calculation method for determining municipal access and franchise fees based on the quantity of energy consumed. The stated impetus was to increase transparency and reduce volatility in the franchise fees citizens are charged. It is important to note that Bill 203 was targeted specifically to Section 360 of the MGA and the related calculation methodologies described within the Act.

Bill 203 was not anticipated to impact the City of Edmonton's franchise agreements as it essentially focused on those franchise fees relating to tax agreements. However, the City still made a submission, not in support of Bill 203, to the responsible Standing Committee. The essence of the City's submission was primarily based on the following:

- the need to respect municipal autonomy by allowing discretion to consider the franchise fee methodology with respect to its budget strategy, consumer mix and distribution system characteristics

- the need to mitigate significant impacts on an important revenue stream for municipalities
- the lack of consideration for potential impact on consumer classes due to the proposed methodology change.

Bill 203 failed to receive approval. However, the introduction of this private member's bill should serve as a reminder that the provincial government continues to influence oversight and control over the enabling legislation around franchise agreements and fees. MLA's reported being challenged by constituents that take the perspective that the municipal franchise fee is simply a proxy for municipal taxation.

However, the City strongly disagrees with this characterization and considers the franchise fee to be a fair charge for the exclusive market and access benefits conferred upon utility companies. Therefore, the City intends to continue to be a strong advocate with the province with respect to continuance of a degree of municipal autonomy for franchise agreements and fees.

The crux of the City's decision to exercise its authority to enter into franchise agreements with utility providers and to collect franchise fees is the need to charge utility providers appropriately for the benefits they receive from the municipality. The costs of those benefits are then included in the price of their commodities; as they should be – ensuring the pricing of those commodities is as reflective of the true cost of doing business as possible. No one would question a private land owner's right to charge a utility company rent for use of its property or the inclusion of those costs in the pricing of the commodity. It should be no different for the use of public lands.

## TELECOMMUNICATIONS UTILITIES

The Canadian Radio-television and Telecommunications Commission, under the authority of the *Telecommunications Act*, can supersede municipal decisions about the use of public land for the placement of telecommunications infrastructure. Based upon the *Telecommunications Act* and associated Canadian Radio-television and Telecommunications Commission decisions, telecommunications companies have been allowed to occupy municipal property without compensation.

A significant Canadian Radio-television and Telecommunications Commission decision occurred in 2001 with the Ledcor and Vancouver decision. This decision ruled that municipalities could not charge "use and occupation" fees for installation of "transmission lines" within the "public places" as noted in the *Telecommunications Act*. This has set telecommunications utilities apart from other utilities as it relates to the use of municipal land. It also means that pricing of telecommunications does not reflect the true cost of providing telecommunications as the use of public rights of way is of significant value and therefore should have a cost attributed to it. This would seem to be a case of the federal government making economic decisions under the *Telecommunications Act* to support the telecommunications industry, at a cost to municipalities not to the federal government. It is not meant to imply that the support of telecommunications is not important to the country and shouldn't be supported to ensure a broad and comprehensive telecommunications network. However, it does not follow that delivering on this important federal outcome should come at the expense of municipalities.

## CONCLUSION

Municipalities facilitate the provision of utility services to the public by allowing access to municipally owned lands for utility infrastructure and by ensuring the delivery of utility services through exclusive franchise agreements with utility providers. Franchise fee agreements are common in the public utility sector, particularly with respect to the delivery of electricity, natural gas and water services and are not a new undertaking. The City of Edmonton has had a franchise agreement associated with natural gas since 1915.

Charges for public land and the conditions for the use of that land are documented in the franchise agreements and set out the franchise fees to be charged. The franchise fees and the basis for calculating them do differ for municipalities across Alberta. In the City of Edmonton, determining the revenue to be derived from franchise fees is accomplished in a very transparent manner through the annual budget process.

Charging utility providers appropriately for the benefits they receive from the municipality allows for the value of those benefits to be included in the price of the utilities – no different than including the cost of acquiring or renting private land in the price of the utilities. It allows for the revenue generated by the franchise fees to be on a basis that relates to the benefits the customers receive. This alignment would be missing if the revenue currently generated through franchise fees were simply replaced with property taxes.

## APPENDIX 1

### ATCO GAS AND PIPELINES FRANCHISE FEE

**Purpose:** To collect a fee from ATCO as compensation for its use and occupation of the City's rights-of-way and for ATCO having an "exclusive right" to distribute gas within the City. The fee provides diversified revenues, reduced reliance on property taxes and compensation for planning and development constraints, risks, and utilities exclusive rights.

### 10 YEAR HISTORY AND 3 YEAR PROJECTION FOR GAS FRANCHISE FEES

(millions of \$)

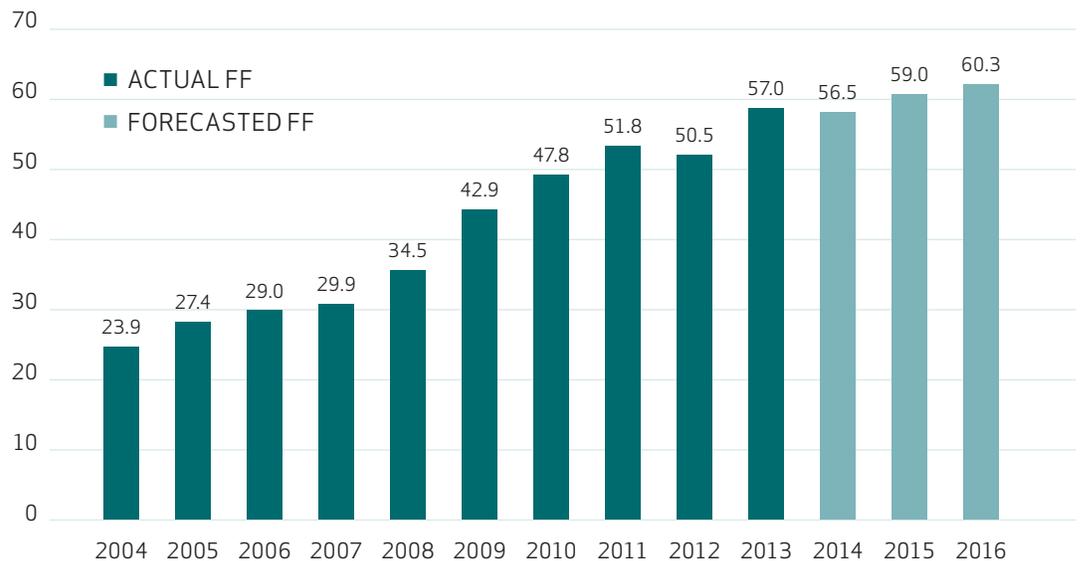


Figure 3

Year	Franchise Revenue (M's)	Rate (%)	Delivery Revenue (M's)	Franchise Revenue as % of Tax-Supported Operations Revenue Budget
2004	\$ 23.9	32.0	\$ 93.8	4.5%
2005	\$ 27.4	32.0	\$ 101.6	4.8%
2006	\$ 29.0	32.0	\$ 107.2	4.6%
2007	\$ 29.9	32.0	\$ 110.4	4.4%
2008	\$ 34.5	32.0	\$ 124.5	4.3%
2009	\$ 42.9	32.0	\$ 150.9	5.7%
2010*	\$ 47.8	28.5	\$ 167.4	5.7%
2011	\$ 51.8	32.9	\$ 159.0	6.3%
2012	\$ 50.5	32.9	\$ 153.4	5.8%
2013	\$ 57.0	32.9	\$ 173.3	6.6%
2014	\$ 56.5	32.9	TBD	6.4%
2015	\$ 59.0	TBD	TBD	TBD
2016	\$ 60.3	TBD	TBD	TBD

\* Reduction to rate as municipal taxes paid independent of franchise fee beginning 2010.

### **AGREEMENTS**

The original franchise agreement became effective November 16, 1915. The latest amendment was signed and passed on July 21, 2010, Bylaw 15372.

The agreement includes clauses pertaining to; franchise fees, core services, taxes, termination, right of first refusal to purchase, construction and maintenance, cost of relocation, system expansion, indemnification, hazardous substances, and dispute settlement.

ATCO is to be notified of any changes to the franchise fee rate by November 15th for the subsequent year.

### **LEGISLATION**

Sections 45 and 61 of the MGA provide the City the right to charge a fee for the use and occupation of City lands and to grant an exclusive right to use City lands for public utility purposes.

### **CALCULATION OF FRANCHISE FEE**

$$\begin{aligned} & \text{DELIVERY REVENUE} \times \text{FRANCHISE FEE RATE (\%)} \\ & = \text{FRANCHISE FEE REVENUE} \end{aligned}$$

### **RATES**

Changes to the current rate of 32.9% require Council approval.

Per the agreement, the franchise fee percentage shall not at any time exceed thirty five (35.0%) percent, unless there has been prior Alberta Utilities Commission approval.

## APPENDIX 2

### EPCOR ELECTRIC POWER DISTRIBUTION FRANCHISE FEE

**Purpose:** To collect a fee from EPCOR as compensation for its use and occupation of the City's rights-of-way and for EPCOR's having an "exclusive right" to distribute electricity within the City. The fee provides predictable and diversified revenues, reduced reliance on property taxes and compensation for planning and development constraints, risks, and utilities exclusive rights.

### 10 YEAR HISTORY AND A 3 YEAR PROJECTION FOR ELECTRIC POWER DISTRIBUTION FRANCHISE FEES (millions of \$)

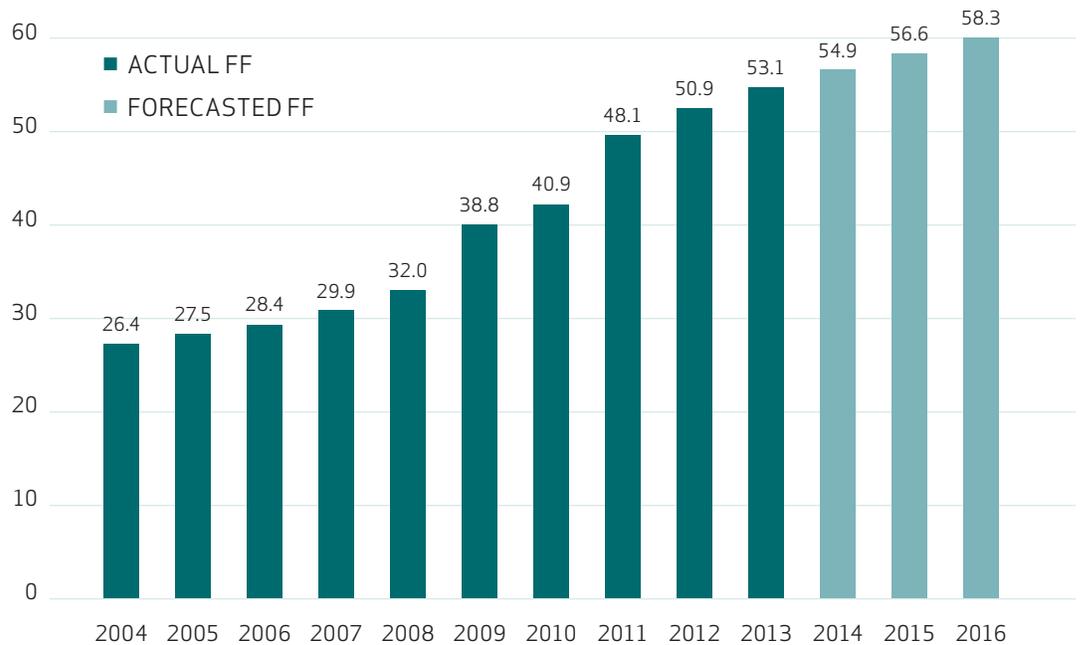


Figure 2

Year	Franchise Revenue (M's)	Rates (\$ per kWh)*	Estimated kWh (M's)	Franchise Revenue as % of Tax-Supported Operations Revenue Budget
2004	\$ 26.4	0.0039	6,697	5.0%
2005	\$ 27.5	0.0040	6,849	4.8%
2006	\$ 28.4	0.0041	6,908	4.5%
2007	\$ 29.9	0.0043	7,034	4.4%
2008	\$ 32.0	0.0044	7,299	4.0%
2009	\$ 38.8	0.0053	7,322	5.1%
2010	\$ 40.9	0.0057	7,225	4.9%
2011	\$ 48.1	0.0066	7,305	5.8%
2012	\$ 50.9	0.0066	7,696	5.9%
2013	\$ 53.1	0.0071	7,702	6.2%
2014	\$ 54.9	0.0072	7,765	6.2%
2015	\$ 56.6	TBD	TBD	TBD
2016	\$ 58.3	TBD	TBD	TBD

\* Revenue/Consumption (kWh)

\*\* 2013 and 2014 rates reflect adjustments to also collect shortfalls from the prior year revenue.

### **AGREEMENTS**

The original franchise agreement, Bylaw 13655 became effective January 1, 1996 and was amended on January 1, 2004. The agreement includes clauses pertaining to; grant of access; work on city lands, maintenance and repair; hazardous substances, indemnification, termination, renewal and arbitration. EPCOR is to be notified of the franchise fee rate by October 1st for the subsequent year.

### **LEGISLATION**

Sections 45 and 61 of the MGA provide the City the right to charge a fee for the use and occupation of City lands and to grant an exclusive right to use City lands for public utility purposes.

### **CALCULATION OF FRANCHISE FEE<sup>1</sup>**

PRIOR YEAR REVENUE × INFLATION FACTOR × GROWTH FACTOR = BUDGETED  
FRANCHISE FEE

Note: Inflation is defined by the year over year change in the August Statistics Canada Consumer Price Inflation Index for Edmonton. The growth factor is 1.5%. However, City Council may adjust this calculation at their discretion.

1. Per Schedule A of the contract.

### **RATES**

Any differences between the actual collection of franchise fee and the budget is due from/owing to EPCOR through the adjustment of the subsequent year rate.

## APPENDIX 3

### EPCOR WATER SERVICES INC. (EWSI) FRANCHISE FEE

**Purpose:** To collect a fee from EWSI as compensation for the exclusive right and license to use the City Lands to construct, install, maintain, operate, repair, replace, extend and remove the equipment for the purpose of providing Water Services within the Municipality. The fee provides diversified revenues, reduced reliance on property taxes and compensation for planning and development constraints, risks, and utilities exclusive rights.

### 10 YEAR HISTORY AND 3 YEAR PROJECTION FOR WATER FRANCHISE FEES

(millions of \$)

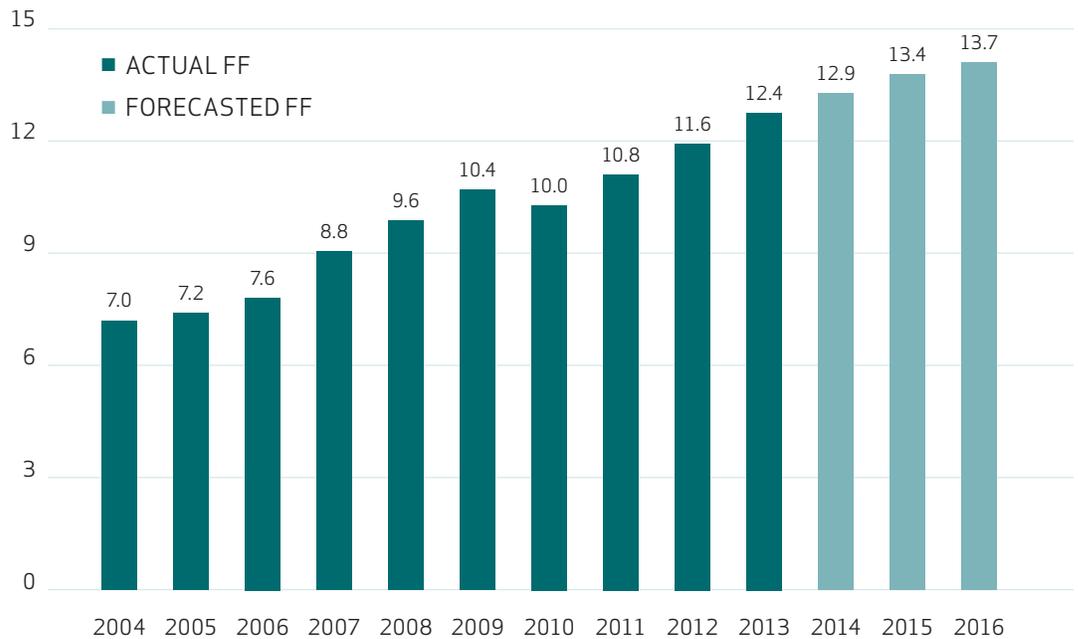


Figure 4

Year	Franchise Revenue (M's)	Rate (%)	Eligible Revenue (M's)	Franchise Revenue as % of Tax-Supported Operations Revenue Budget
2004	\$ 7.0	7.6	\$ 91.6	1.3%
2005	\$ 7.2	7.6	\$ 94.6	1.3%
2006	\$ 7.6	7.6	\$ 100.1	1.2%
2007	\$ 8.8	7.6	\$ 115.2	1.3%
2008	\$ 9.6	7.6	\$ 126.7	1.2%
2009	\$ 10.4	7.6	\$ 136.7	1.4%
2010	\$ 10.0	8.0	\$ 124.8	1.2%
2011	\$ 10.8	8.0	\$ 135.2	1.3%
2012	\$ 11.6	8.0	\$ 145.0	1.3%
2013	\$ 12.4	8.0	\$ 155.0	1.4%
2014	\$ 12.9	8.0	TBD	1.5%
2015	\$ 13.4	TBD	TBD	TBD
2016	\$ 13.7	TBD	TBD	TBD

**AGREEMENTS**

The original franchise agreement became effective January 1, 1999. The latest amending agreement is effective April 1, 2010, which adjusted the franchise fee rate to 8% and made adjustments to the relocation provision. On October 26, 2011, EPCOR Water Services and Wastewater Treatment was consolidated under the 2012-2017 performance based rates Bylaw 15816, effective April 1, 2012.

The agreement includes clauses pertaining to; access, water supply covenants, term, work on city lands, maintenance and repair, relocation, indemnification, hazardous substances, termination, five year review, and arbitration.

**LEGISLATION**

Sections 45 and 61 of the MGA provide the City the right to charge a fee for the use and occupation of City lands and to grant an exclusive right to use City lands for public utility purposes.

**CALCULATION OF FRANCHISE FEE**

	ELIGIBLE REVENUE (\$)
MULTIPLIED BY:	<u>FRANCHISE FEE RATE (8.0%)</u>
	SUBTOTAL (\$)
LESS:	<u>MUNICIPAL TAX (EXCLUDING SCHOOL PORTION) (\$)</u>
EQUALS:	FRANCHISE FEE REVENUE (\$)

**RATES**

Current rate is 8.0%. Any changes to the rate must be approved by Utility Committee and City Council.

## APPENDIX 4

### EPCOR WASTEWATER FRANCHISE FEE

**Purpose:** To collect a fee from EPCOR as compensation for the “exclusive right” to treat wastewater in the municipality. The fee provides diversified revenues, reduced reliance on property taxes and compensation for planning and development constraints, risks, and utilities exclusive rights.

### 10 YEAR HISTORY AND 3 YEAR PROJECTION FOR WASTEWATER FRANCHISE FEES

(millions of \$)

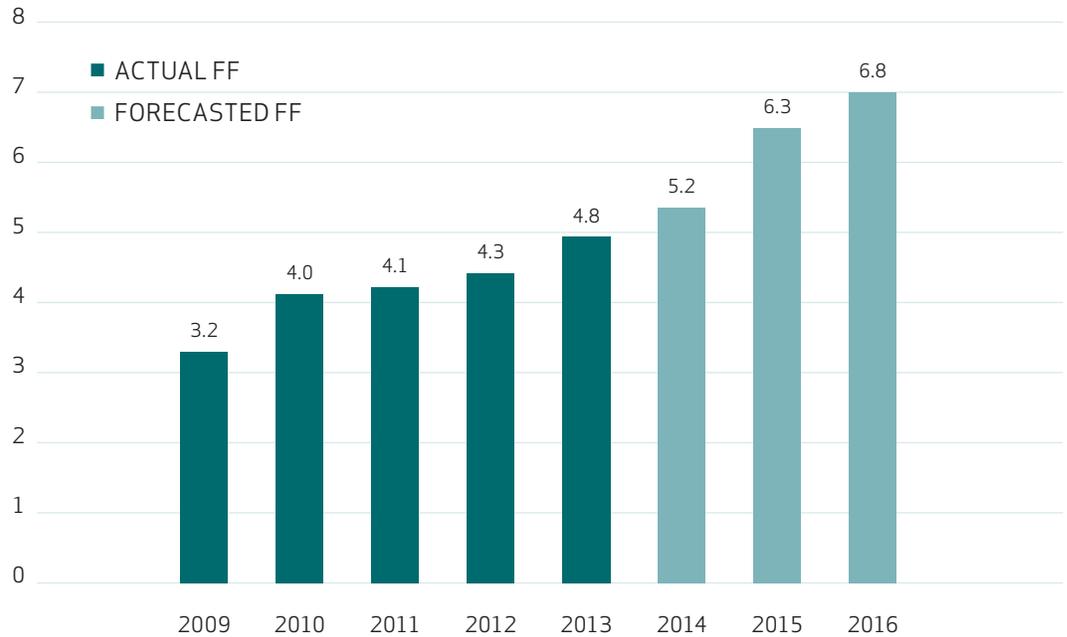


Figure 5

Year	Franchise Revenue (M's)	Rate (%)	Eligible Revenue (M's)	Franchise Revenue as % of Tax-Supported Operations Revenue Budget
2009	\$ 3.2	8.0	\$ 40.3	0.4%
2010	\$ 4.0	8.0	\$ 50.0	0.5%
2011	\$ 4.1	8.0	\$ 51.3	0.5%
2012	\$ 4.3	8.0	\$ 55.0	0.5%
2013	\$ 4.8	8.0	\$ 60.0	0.6%
2014	\$ 5.2	8.0	TBD	0.6%
2015	\$ 6.3	TBD	TBD	TBD
2016	\$ 6.8	TBD	TBD	TBD

**AGREEMENTS**

On March 31, 2009 the City transferred the Gold Bar Wastewater Treatment Plant assets and liabilities to EPCOR. Prior to the transfer, the Gold Bar Wastewater Treatment Plant was part of the Drainage Services Utility. On October 26, 2011, EPCOR Water Services and Wastewater Treatment was consolidated under the 2012-2017 performance based rates Bylaw 15816, effective April 1, 2012.

Franchise fees are covered within the Gold Bar Master Agreement dated March 31, 2009.

**LEGISLATION**

Sections 45 and 61 of the MGA provide the City the right to charge a fee for the use and occupation of City lands and to grant an exclusive right to use City lands for public utility purposes.

**CALCULATION OF FRANCHISE FEE**

	ELIGIBLE REVENUE (\$)
MULTIPLIED BY:	<u>FRANCHISE FEE RATE (8.0%)</u>
	SUBTOTAL (\$)
LESS:	<u>MUNICIPAL TAX (EXCLUDING SCHOOL PORTION) (\$)</u>
EQUALS:	FRANCHISE FEE REVENUE (\$)

**RATES**

Current rate is 8.0%. Any changes to the rate must be approved by Utility Committee and City Council.

## APPENDIX 5

### DRAINAGE SERVICES LOCAL ACCESS FEE

**Purpose:** An amount that would otherwise be equivalent to property taxes, and compensation for the exclusive rights afforded each utility for as long as such property is deemed by the relevant legislation of the Province of Alberta to be non-assessable and non-taxable for property taxes.

### 10 YEAR HISTORY AND 3 YEAR PROJECTION FOR DRAINAGE SERVICES LOCAL ACCESS FEES

(millions of \$)

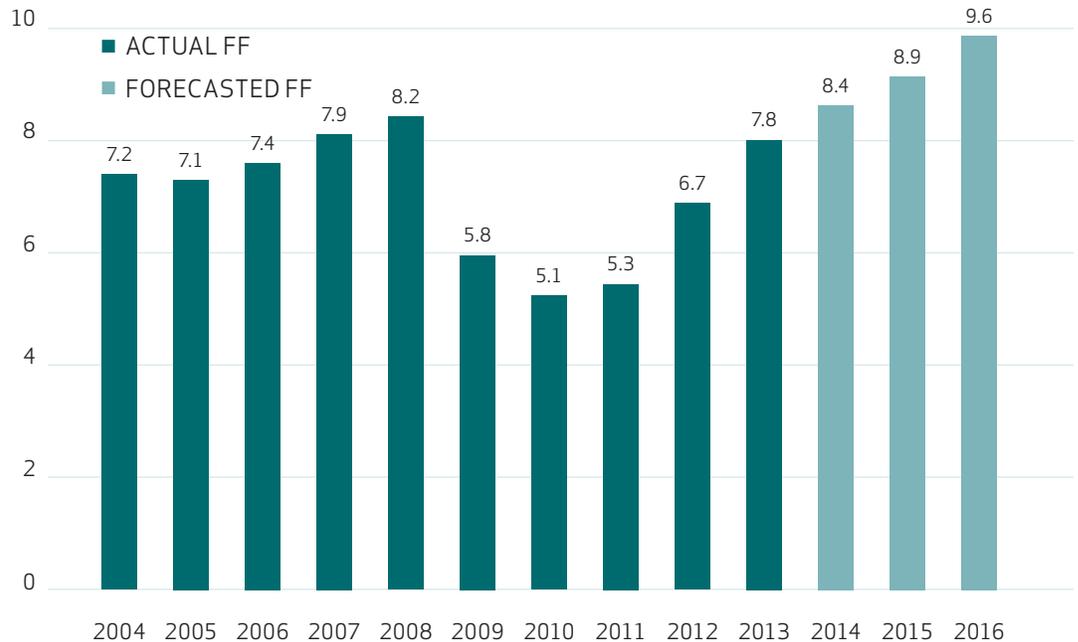


Figure 6

Year	Local Access Fee (M's)	Rate (%)	Qualifying Revenue (M's)	Local Access Fee as % of Tax-Supported Operations Revenue Budget
2004	\$ 7.2	8.0	\$ 89.6	1.4%
2005	\$ 7.1	8.0	\$ 88.8	1.3%
2006	\$ 7.4	8.0	\$ 92.1	1.2%
2007	\$ 7.9	8.0	\$ 98.2	1.2%
2008	\$ 8.2	8.0	\$ 102.7	1.0%
2009*	\$ 5.8	8.0	\$ 72.8	0.8%
2010	\$ 5.1	8.0	\$ 64.0	0.6%
2011	\$ 5.3	8.0	\$ 66.3	0.6%
2012	\$ 6.7	8.0	\$ 85.6	0.8%
2013	\$ 7.8	8.0	\$ 97.5	0.9%
2014	\$ 8.4	8.0	TBD	1.0%
2015	\$ 8.9	TBD	TBD	TBD
2016	\$ 9.6	TBD	TBD	TBD

\* On March 31, 2009 the Gold Bar Facility was transferred to EPCOR Water Services Inc.

**AGREEMENTS**

The Local Access Fee is included in City Policy C304C *Drainage Services Utility Fiscal Policy*, adopted by Council on June 1, 2011.

**LEGISLATION**

Sections 45 and 61 of the MGA provide the City the right to charge a fee for the use and occupation of City lands and to grant an exclusive right to use City lands for public utility purposes.

**CALCULATION OF FRANCHISE FEE**

$$\text{QUALIFYING REVENUE}^* \times \text{LOCAL ACCESS RATE (\%)} \\ = \text{LOCAL ACCESS FEE REVENUE}$$

\* *Qualifying Revenue includes rate revenue and other revenues from regulated activities.*

**RATES**

Current rate is 8.0%. Any changes to the rate must be approved by Utility Committee and City Council.