

Bulletin 2024-12

July 10, 2024

Process for franchise agreement and franchise fee approvals under new legislation

The AUC has outlined processes for approving municipal franchise agreements and franchise fees affected by the Alberta government's [*Utilities Affordability Statutes Amendment Act, 2024*](#) (formerly referred to as Bill 19). The AUC has set out filing deadlines to ensure municipalities and utilities have sufficient time to prepare the relevant franchise agreements, and so the AUC has sufficient time to adequately review and approve subsequent applications.

The *Utilities Affordability Statutes Amendment Act, 2024* (the Act) received royal assent on **May 16, 2024**. The Act makes several changes to statutes concerning franchise agreements, including:

- Section 139 of the *Electric Utilities Act* now requires AUC approval of electric distribution franchise agreements between a municipality and a corporation controlled by the municipality or subsidiary of the municipality (collectively referred to as subsidiaries). Subsection 139(7) provides that, without AUC approval, existing franchise agreements between a municipality and its subsidiary are terminated 270 days after the coming into force of that subsection.
- Section 49(5) of the *Gas Utilities Act* now states that a franchise granted by a municipality to an owner of a gas utility that has not been approved after the coming into force of this subsection will terminate 270 days after the coming into force of that subsection.
- Section 45.01 of the *Municipal Government Act* now prohibits franchise agreements from providing for the payment of fees that are determined in whole or in part using a price per kilowatt hour or per gigajoule that varies according to market prices.

These and other associated amendments came into force via proclamation on **June 20, 2024**. As a result, any franchise agreement impacted by the amendments will terminate on **March 17, 2025**, unless approved by the AUC before this date.

Unchanged, existing natural gas franchise agreements compliant with the Act

The AUC determined that some franchise agreements previously approved by the AUC may be considered through a new, expedited process.

To facilitate the approval process, the AUC has created a [Franchise application checklist for reapprovals form](#). Utilities can submit the agreements together in one or more applications by no later than **January 10, 2025**.

To qualify for this approach, a municipality and utility cannot make any changes to the previously approved franchise terms, including the expiry date and the previously acknowledged franchise fee.

Prior to the filing of these applications, municipalities or utilities must publish notice in accordance with [Rule 029: Applications for Municipal Franchise Agreements and Associated Franchise Fee Rate Riders](#). The application must include reporting on any objections as set out in Rule 029. If objections are received, the franchise agreement must be filed for approval using existing AUC processes (i.e. if there are objections to the approval of the franchise agreement, it does not qualify for the new expedited process).

Utilities are not required to file copies of the franchise agreements or the published notices as part of these applications. The information required in the checklist application form is sufficient for the initial application. The AUC will determine if additional process or information is required.

Any previously approved franchise agreement that has continued to be in effect pursuant to section 47(1) of the *Municipal Government Act* or has otherwise been in effect for more than 20 years without AUC consideration is not eligible for approval under this new expedited approach. These franchise agreements must be filed for approval using the AUC's existing processes by **January 10, 2025**.

Franchise agreements eligible for the AUC's existing streamlined process

Rule 029 established a streamlined process for applications requesting approval of electric or gas franchise agreements. [Bulletin 2021-13](#) subsequently established an additional automated disposition process for a subset of applications qualifying for the rule's streamlined process. These processes include AUC-approved template franchise agreements for Apex Utilities Inc., ATCO Electric Ltd., ATCO Gas and Pipelines Ltd. and FortisAlberta Inc.

If a municipality and utility wish to make changes to an existing AUC-approved franchise agreement (e.g. extending the expiry date or changing other terms), then the agreement cannot be approved using the new expedited process set out above. These franchise agreements would need to be filed through existing AUC processes. If they are eligible for the streamlined processes set out in Rule 029 and Bulletin 2021-13, then they must be filed by no later than **January 10, 2025**.

Franchise agreements not eligible for the AUC's existing streamlined process

The AUC expects to receive applications for approval of franchise agreements that are not eligible for either the new expedited process or the existing streamlined process described above. These include franchise agreements that are not based on the AUC-approved templates. These

franchise agreements may require additional time and process to review for approval. To ensure they can be approved by **March 17, 2025**, the AUC has set a filing deadline of **December 4, 2024**.

The filing deadlines set out above are summarized in the table below:

Application type	Deadline
1. Applications for approval of unchanged existing natural gas franchise agreements compliant with the Act.	January 10, 2025
2. Applications for approval of franchise agreements eligible for streamlined approvals, as set out in Rule 029 and Bulletin 2021-13.	January 10, 2025
3. Applications for approval of franchise agreements that are not eligible for the new expedited or existing streamlined processes.	December 4, 2024

Additional filing requirements and restrictions

The AUC considers that most franchise agreement applications it receives should follow the AUC-approved franchise agreement templates, including the methodology for calculation of franchise fees and maximum franchise fee levels (20 per cent for electric and 35 per cent for natural gas). Under the approved templates, franchise fees for natural gas are calculated as a percentage of the actual revenue from the delivery tariff, excluding the cost of natural gas. For electric agreements, the franchise fee is calculated as a percentage of actual revenue from the distribution tariff. The AUC reminds municipalities and utilities that should they propose methodologies that deviate from the templates, the onus rests on the applicant to demonstrate that the proposal is compliant with the legislation and will result in just and reasonable rates.

Amendments to Rule 029

The AUC will also be amending Rule 029 in the coming months. These amendments will be released for comment through the [AUC Engage](#) website. The amendments are intended to align the rule with the Act, modernize and add flexibility to the notice publishing requirements and clarify language. The AUC intends for the revised rule to apply to the process through which the AUC will approve the franchise agreements required by the Act.

Any questions related to this bulletin may be directed to Chris Arnot at chris.arnot@auc.ab.ca.