



## Request for City Council Committee Action from the Department of the City Coordinator

**Date:** August 2<sup>nd</sup> 2012

**To:** Council Member Glidden, Chair IGR Sub-Committee  
**Referral to:** Council Member Lilligren, Chair Committee of the Whole

**Subject:** City Position on Sewer Availability Charge (SAC)

**Recommendation:** That the City approve the "Minneapolis Position and Priorities on SAC";

That the City communicate its position on SAC to the Metropolitan Council, and;

That IGR, Public Works, Regulatory Services and CPED staff work to implement that position through the SAC Work Group, meetings with Metropolitan Council Members and staff, and, if necessary, through new legislation.

**Previous Directives:** None

### Department Information

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## **Financial Impact:**

Outcomes of the new city position could affect both the cost of SAC and the amount paid out of the sewer fund for the City's metropolitan waste-water changes.

## **Sewer Availability Charge (SAC) Program Background**

The Metropolitan Council Environmental Services (MCES) collects and treats wastewater at its seven regional treatment plants. It also develops plans to preserve and manage the region's water resources. Its services include ensuring that sufficient sewer capacity exists to serve planned development and that wastewater collection and treatment services are provided in a low costs, high quality and competitive manner.

Funds to operate the MCES activities are collected in two ways. Municipal Wastewater Charges (MWC) are paid by municipalities (via utility charges to each property) for treatment of their wastewater, supporting ongoing maintenance and operations of MCES's system. Sewer Availability Charges (SAC) are a one-time fee charged by MCES to use as "reserve capacity" in the Metropolitan Disposal System.

In other words, SAC is a fee intended to pay for each new connection, or system capacity and increase expansion demanded of the Metropolitan Disposal System. This could include paying for a new pipe or increasing the diameter of pipe to accommodate new capacity. When residents and business owners pay SAC, they are paying for their portion of this capacity, or according to MCES "It's the cost of service for standing ready to receive wastewater."

The City of Minneapolis, the largest customer of the SAC program, paid 17.5% of all SAC charges for the Metropolitan Region in 2011. Minneapolis is not, however, generally increasing total capacity load – instead, capacity load within Minneapolis has been on a decreasing trend over the last seven years. Target Field, for example, generated 484 new SAC units for a total of \$969,825, but did not require new pipes or changes in the system to accommodate growth. The City of Minneapolis has significantly invested in sewer separation programs, inflow and infiltration projects, and encouraged water conservation, all creating opportunities for additional capacity in the wastewater system.

The City of Minneapolis is also the largest customer of MCES and pays the greatest amount of MWC which is based on the City's flow or the amount of wastewater treated. Minneapolis paid 18.3% of all MWC fees in the Metropolitan Region in 2011. MCES is currently initiating projects to complete more extensive wastewater pipe rehabilitation projects, paid for by MWCs, in Minneapolis versus spot repairs.

## **Net Credit Policy**

In 2010, the Met Council, over the objections of many cities, eliminated its long standing "net credit" policy, which provided that a decrease in net capacity would result in net SAC credits held by the municipal customer. The net credit policy helped to ensure that property owners and businesses in fully developed cities such as Minneapolis were not forced to pay the "one time" SAC fee multiple times as existing properties changed uses and required less or more credits. Here are some examples of small businesses impacts from elimination of the net credit policy:

- Taco El Prima 3006 4th Avenue South – This is a small restaurant with 1.54 excess credits. If they expand their restaurant in the future, they will pay additional SAC because the excess credits go away after a certain number of years.
- Al Razaq 1839 Central Avenue NE – This is a small restaurant with 2.11 excess credits. They will pay additional SAC if they expand in the future.

- Pinta Foamtec 2601 49th Avenue North – This is a commercial interior remodel of existing space with 2.58 excess credits. The excess credits will go away when the permit is issued.
- Parkway Pizza 4457 42nd Avenue South – Parkway Pizza paid SAC in 2009 and wants to relocate to another location in the neighborhood. SAC credits stay with the property. They will most likely pay SAC fees in their new location, even though existing infrastructure and capacity exists in the area to handle the flow.

**Customer Service Concerns.** Customer concerns relating to the Met Council's SAC program have increased since 2010 on a wide variety of topics.

- **Responding to businesses.** Although the Met Council lists phone numbers on its SAC determination letters, Met Council staff reportedly do not answer the phone, return phone calls, or meet in person with businesses that have questions.
- **Rules do not correspond to business reality.** A common complaint from restaurants, as an example, is that seat count calculations do not account for aisle space or common areas.
- **Rules are complex and changing.** Businesses often have multiple questions about SAC fees, the rules governing those fees, and dispute application of the rules. City staff is often forced to act as go-between communicators between businesses and the Met Council.
- **Appeals process.** Appeals of SAC determinations require significant time by the customer and by city staff, however there are no guidelines or time limits for the appeals and Met Council determinations.
- **Audit/Community Review.** Over the last three years, MCES has expanded its Community Review to a complete audit of remodeling permits issued by the City of Minneapolis (approximately 6,800 permits in 2011). Along with the review of permits, the audit includes random visits by MCES staff to hair salons, restaurants, and hotels. Every year, the audit/review looks at the past seven years, so that businesses may be reviewed multiple times. The length of the audit period (7 years) is particularly challenging as the restaurant industry has significant business turnover, making access to records required by the Met Council particularly difficult for businesses that are audited.

The Community Review takes significant Met Council staff resources, as well as significant City of Minneapolis staff resources, and the resulting unexpected charges to businesses can result in significant financial hardship including - for some -- going out of business.

### **Minneapolis Position and Priorities on SAC:**

The City of Minneapolis believes that the current SAC program is out of balance and that fully-built cities are paying a disproportionate amount of funds into the SAC program with little corresponding need for increased capacity. While we strongly believe that SAC should be reasonable and fair for the whole region and that a healthy SAC fund is vital for MCES' future investments, we also believe that the SAC program should appropriately charge fees based on the need of those paying into the system for their corresponding capacity.

The City of Minneapolis supports:

- Ensuring SAC program charges correspond to actual increase in net capacity (note: Minneapolis is trending down in capacity)

- Reinstating the Net Credit policy with maximum local flexibility, to ensure business, property owners and cities within developed areas are not penalized by paying SAC multiple times.
  
- Increasing and improving MCES services and outreach to business and property owners charged SAC and reduce unexpected or unfair charges. These service improvements should include:
  - Provision of Met Council staff on-site in Minneapolis and other large SAC customers
  - Full review of customer service policies
  - Revise audit (review) policy to less than 7 years (suggested 3 years). The audit process provides minimal impact to the SAC fund, while requiring significant staff time and large unexpected charges and expense to business or property owners.
  - Creation of a payment plan funded by MCES to assist businesses in paying SAC charges.