

E Environment Committee

Meeting date: November 9, 2010

For the Metropolitan Council Meeting of December 8, 2010

ADVISORY INFORMATION

Date:	November 3, 2010
Subject:	Adoption of Recommendations of the Reserve Capacity/ Sewer Availability Charge (SAC) Task Force
District(s), Member(s):	All
Policy/Legal Reference:	Council Admin. Policy 3-2-5; Water Resources Management Policy Plan, and MN Statute 473.517 subd. 3
Staff Prepared/Presented:	Jason Willett 651-602-1196
Division/Department:	MCES c/o William G. Moore 651-602-1162

Proposed Action

That the Metropolitan Council adopts the recommendations made by the Reserve Capacity/SAC Task Force, specifically to:

- 1) Direct staff to pursue legislation to annually determine the SAC requirement toward wastewater expenses based on the costs and debt service of providing additional capacity incurred in MCES capital projects (the "Growth Cost" methodology),
- 2) Until the statutory authorization changes, to develop future SAC and Municipal Wastewater Charges based on the "Combination Method" for reserve capacity determination, and
- 3) Revise the SAC Procedure Manual to change criteria for a) restaurants and b) day care facilities, and c) to allow a substitute fee (in lieu of SAC) for the temporary use of wastewater capacity, all with an effective date of January 1, 2011.

Background

In November 2009, the Council appointed a task force of stakeholders, chaired by Council member Peggy Leppik, to evaluate and recommend changes to: 1) current and proposed methods of "reserve capacity" estimation (that is, the MCES costs for which SAC would ideally pay) and 2) Council fees for reserve capacity funding (that is, SAC criteria and discounts).

The most significant recommendation from the Task Force is that the Council use the principle "growth should pay for growth" as the basis for establishing SAC and pursue a statutory change that allows SAC to pay for the growth portion of MCES capital projects, without any sort of measurement of reserve capacity. Instead of using a method of measuring reserve capacity the recommendation is simply that the SAC fund pays the cost of growth projects. A technical memo on the proposed guidelines for determining the growth portion of capital project costs is included in their report.

While legislation is being pursued to make this change, the Task Force recommended that the Council adopt a reserve capacity determination method that reasonably matches the intent of the Growth Cost method. The closest method discussed by the task force is the "Combination Method". This methodology is discussed in detail in the Task Force report that can be found on the web at:

http://www.metrocouncil.org/environment/RatesBilling/SAC_Program.htm

Since the 2011 budget and rates are already set, this change (to Growth Cost if the statute is amended or Combination Method, if not) would be made for the 2012 budget and rates.

Other changes recommended by the Task Force that would be implemented in SAC procedures, effective January 1, 2011, are as follows:

Adoption of a new charge for temporary use of capacity in lieu of charging SAC for permanent capacity. This is proposed to be an option for customer communities, but limited to those temporary uses that are 3 years or less.

Revising the SAC criteria, for restaurants, based on the technical information available, such that all restaurants would be assessed on a single criterion regardless of the restaurant's business model. This is a decrease in SAC liability for new full service restaurants and an increase for new fast food establishments.

Revising the SAC criteria for daycare facilities (not in-home daycares) so that SAC liability will be based on square footage for all daycare facilities, regardless of the licensing with the state. And changing the square footage per SAC in this criteria to reflect the average reduction in usable space due to state licensing.

Rationale

The full costs of the metropolitan wastewater system should continue to be paid by the users of the system, without any tax money or state appropriations. The proposed changes are a direct result of public input and still maintain the philosophy of the user charge system.

Funding

Changing from the current "Committed Capacity" reserve capacity methodology to a Growth Cost method is expected to initially increase the annual SAC transfer. However, as growth projects and their debt service are reduced this may not always be true. All changes in the SAC transfer are offset by changes in the Municipal Wastewater Charges.

If the SAC fund is unable to pay the SAC transfer amount, the SAC shift authority, now in statute, allows shifting some of the financial responsibility back to the Municipal Wastewater Charges, temporarily and subject to some requirements.

The recommended changes in SAC criteria are not expected to materially affect the overall receipts from SAC.

Known Support / Opposition

On October 12, 2010, MCES held a public meeting, chaired by Council Member Dan Wolter, to solicit public comments on the SAC Task Force's proposed recommendations. Ten people (excluding staff) attended the meeting and there were no voiced objections made to any of the recommendations (summary in Attachment A). In the ten day written comment period, a single written comment was received from Metro Cities; it is included as Attachment B.

Attachment A

Staff summary of questions/comments at October 12, 2010 public meeting

- Metro Cities supports the idea that growth pays for growth and stated they will support a bill on this in 2011 legislation.
- Metro Cities encourages the Council to reconvene the Task Force as legislation moves forward, on an as needed basis.
- Metro Cities noted also that the Task Force asked for a review of the way in which SAC policies interfaced with and supported other Council policies.
- A City official questioned what the SAC rate would be in light of these changes, to which staff stated that, assuming the Council supports the changes, SAC would pay more - at least initially - as compared to the Committed Capacity method. However, this changed methodology may not always be an increase since the ratio of growth costs to non-growth costs will change over time. Staff also noted that:
 - this methodology is about what SAC ideally pays, however, the SAC fund may not be able to make those payments, in which case the "SAC shift" legislation temporarily shifts the unaffordable cost back to the municipal wastewater charges,
 - the SAC shift legislation requires that if a shift occurs the SAC rate must increase a minimum of 6% increase (or 3% above inflation, whichever is higher).
 - 2011 rates are 2 years into a 3 year phase-in of the change to the Committed Capacity reserve capacity method. If the method is not changed, the Committed Capacity method will have a lower SAC requirement than the Growth Cost method for the short-term and probably the long-term.
- A City official asked for an explanation of the proposed Temporary Capacity Charge and whether it would be carried over as credit. The Temporary Capacity Charge is not proposed to be creditable to a future SAC liability as this was deemed a temporary rental of capacity.
- A City official was concerned the Temporary Capacity Charge would be an administrative burden on municipal staff. MCES staff stated the Council is looking for input on how to implement the Temporary Capacity Charge. The Charge is proposed to be a one-time charge with a maximum term of 36 months, so it shouldn't be administratively too difficult. Staff indicated that cities would have a choice and could opt not to implement a Temporary Capacity Charge (although in that case SAC – for permanent capacity - would be assessed). Staff also invited comment on the form of the proposed new charge.



October 20, 2010

Ms. Kelly Barnebey
Metropolitan Council
390 North Robert Street
Saint Paul, MN 55101

Dear Ms. Barnebey:

Thank you for the opportunity to comment on the recommendations of the SAC (Service Availability Charge) Task Force. Metro Cities appreciates the opportunity to participate on the Task Force, and the work of Chair Leppik, Councilmember Scherer, and MCES staff in these efforts.

Metro Cities recommended the establishment of a SAC task force last year, when SAC revenues were experiencing a steep decline and changes to the SAC funding methodology were being proposed to address the challenges facing the reserve fund. We believed that having a task force analyze the SAC structure and making recommendations for the program was important and timely in light of the steep and potentially long term challenges facing the SAC program.

Metro Cities' legislative policies have long supported a SAC program that emphasizes equity and simplification. Our 2011 policies, which have been adopted by our Board of Directors, and will be considered by our full membership in November, support the 'growth pays for growth' approach as recommended by the SAC Task Force. This approach is one that is fair, reasonable, and more understandable from both a policy and a technical perspective. Metro Cities also supports the changes recommended by the Task Force regarding SAC fees for certain types of commercial uses, with the aim of assuring fairness and equity in the SAC program.

Metro Cities recognizes that state statutory amendments are required to adopt the changes recommended by the task force, and we stand ready to assist the Council in those efforts. In the event the statute is not amended during the 2011-2012 legislative biennium, we support the interim method as approved by the Task Force that results in a SAC requirement that is financially similar to the growth cost method.

As potential changes to the SAC program are made, Metro Cities encourages the Council to consult with members of the Task Force on an as needed basis to assure that the SAC program, in a time of on-going economic challenges, is functional and sustainable over time.

Metro Cities also encourages the Council to undertake an analysis of SAC policies and their interaction and consistency with other Met Council policies, as was discussed by the Task Force.

Thank you for your consideration of these comments.

Sincerely,


Patricia A. Nauman
Executive Director