

189534

AGENDA ITEM 511

TESTIMONY

2:00 PM TIME CERTAIN

**Revise residential solid waste and recycling collection rates and charges,
effective July 1, 2019**

If you wish to speak to Council, please print your name, address and email

Name (PRINT)

Address and Zip Code (Optional)

Email (Optional)

press
can
up
together

Name (PRINT)	Address and Zip Code (Optional)	Email (Optional)
Beth Vargas Deacon	Portland Hewlers Assoc	
Kevin Gieger	Portland Hewlers Assoc	

Portland Haulers Association

Testimony to Portland City Council *Residential Solid Waste and Recycling Rates* May 29, 2019

Introduction - Good afternoon Mayor Wheeler and members of the Council.

I am Kevin Gienger, Rate Consultant for the Portland Haulers' Association (PHA). I am representing PHA today and will be speaking to the rate review process and the possible application of the 1% Clean Energy Surcharge (CES) to residential garbage and recycling rates.

Rate Review Process

- Every year Portland residential service haulers engage in a robust rate review process and the haulers work cooperatively with the city's BPS staff to provide detailed financial information.
- The city's rate consultant reviews the financial information and rates to determine cost of service and projects cost for the coming year. I, along with the haulers, and city staff collectively discuss the calculations and projections to try to ensure accuracy for both the haulers and the ratepayers.
- PHA believes the rate review and setting process is fair with the right balance of independent review and transparency to assure reasonable rates for the haulers for their service and to the Portland customers they serve.

Clean Energy Surcharge

PHA presented testimony, dated March 28, 2019 during the public comment period on Portland's proposed draft administrative rules related to the Clean Energy Surcharge. Note, we are submitting it again today along with my testimony for your convenience. As we await a decision from the city, PHA reasserts that the solid waste franchisees are:

1. not "retail" in the traditional sense – they more similar to a utility and we don't believe Portland residents expected the CES to be applied to their garbage service;
2. already highly regulated by the city paying city franchise fees in order to provide services and comply with city clean fleet, carbon reduction standards, and other requirements; and
3. rate regulated by the city and adding the CES will increase residential rates 20 cents per customer per month per city estimates.

There are eleven franchised haulers in Portland, only three of them are subject to the CES. Adding the 1% CES into rates creates an imbalance and requires all residential customers to pay higher rates. PHA is concerned that applying the CES to solid waste services increases rates adversely impacting those least able to afford these fundamental services necessary for the protection of community health and human safety.

PHA supports the efforts to improve opportunities for economic development in the city and investments in a clean, green economy. We want to make sure as this work advances and decisions about the CES are made, that the full context of its application specific to the residential waste management industry and our customers is known. As stated before, we remain available to discuss alternative ideas and problem solve on this issue and any others that come before you relating to our services for the residents of Portland.

Call to action – PHA requests the city to exempt solid waste services from the CES, otherwise PHA supports the rate increases as staff presented today. We look forward to continuing our partnership with the city. We appreciate the city's support of the haulers in maintaining affordable, safe, reliable services and protecting the health and human safety of Portland's residents as well as the environment.

I would be pleased to answer your questions.

Thank you,

Kevin Gienger, Portland Haulers' Association Rate Consultant
Managing Partner, Boldt, Carlisle and Smith
keving@bsllc.com
503-585-7751

Portland Haulers Association

MEMORANDUM

TO: Thomas Lannom, Director, Revenue Division, City of Portland
CC: Tyler Wallace, Tax Division Manager and Matt Thorup, Analyst I, Revenue Division and Michelle Crim, Sustainability Officer, Bureau of Planning and Sustainability, City of Portland
FROM: Beth Vargas Duncan, Regional Director, ORRA
DATE: March 28, 2019
RE: Clean Energy Surcharge

Thank you again for taking the time to meet with me on Tuesday, March 19, 2019 to discuss the Clean Energy Surcharge (CES) and our concerns about placing the tax on solid waste services within Portland. During our meeting, you requested I follow-up in writing with an outline of our concerns about: 1) applying this tax to solid waste services; 2) a colloquial definition of utility; and 3) information from other jurisdictions that treat solid waste services as a utility. That information is below.

Before providing the technical information, I wanted to reiterate that our concerns are really rooted in that these businesses are not retail in the traditional sense and are in a unique category of services that are already highly regulated by the city, paying either a franchise fee or tonnage fee back to the city for the privilege to provide services in Portland. Portland's haulers comply with clean fleet and carbon reduction standards, among other city regulations, as they serve customers with waste management and recycling services. Adding a tax on top of already existing charges that others covered in this ordinance do not pay, creates an imbalance and added costs to the haulers that ultimately will be passed on to customers through rates. We work collaboratively with the city on many efforts, including the recent increased tonnage fee added to the commercial service to support citywide trash clean-up efforts. We hope that in addition to the technical rationale outlined below that you consider the unique role Portland haulers play.

Tax on Solid Waste Services – Application of this tax to solid waste services will increase rates, most adversely impacting those least able to afford these fundamental utility services necessary for the protection of community health and human safety. This outcome runs counter to the city's mission and diversity, equity & inclusion efforts.

(Reference <https://www.portlandoregon.gov/civic/29128> and <https://www.portlandoregon.gov/oehr/>)

Colloquial Definition of Utility – When Portland voters adopted the Clean Energy Initiative we don't believe they expected the tax to be applied to "utilities" including their garbage services. As you requested during our discussion, I have provided some colloquial definitions of "utility" inclusive of waste services as provided and regulated with the City of Portland.

Definitions of public utility services include:

Merriam-Webster Dictionary

Definition of public utility: a business organization (such as an electric company) performing a public service and subject to special governmental regulation.

<https://www.merriam-webster.com/dictionary/public%20utility>

Market Business News

According to *BusinessDictionary.com*, to define public utility is:

“Government or private sector owned provider of energy, telecommunications, transportation, waste disposal, water, or other such basic good or service.”

<https://marketbusinessnews.com/financial-glossary/public-utility-definition-meaning/> and

Dictionary.com

Public utility: a business enterprise, as a public-service corporation, performing an essential public service and regulated by the federal, state, or local government.

<https://www.dictionary.com/browse/public-utility>.

The Black’s Law legal definition of public utility includes “waste disposal.”

The Law Dictionary: Featuring Black’s Free Online Dictionary 2nd. Ed.

What is PUBLIC UTILITY? The provider of a service to the public such as transport, energy, telecommunications, waste disposal, or water and any other public goods and services.

<https://thelawdictionary.org/public-utility/>

While some of these definitions note franchised services, one commonality is government regulation. As we discussed, Portland’s residential solid waste services to dwellings with four or less units are franchised.

Portland’s commercial solid waste services (five or more dwelling units) must operate under a city permit and meet many city service and operational requirements. (Reference city code

https://www.portlandoregon.gov/citycode/28889#cid_711229 and administrative rules:

<https://www.portlandoregon.gov/bps/41472>).

Jurisdictions with Solid Waste as a “Utility” – Additionally, you asked if I could provide examples of other jurisdictions that define solid waste services as a “utility.” The City of Seattle regulates solid waste services as one of their public utilities. Reference <https://www.seattle.gov/util/index.htm> and Seattle Municipal, Code Title 21 Utilities, Subtitle III Solid Waste

https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT21UT.

Inequity among Solid Waste Service Providers – Applying the CES to certain residential solid waste franchisees and commercial licensees creates an inequity through the City of Portland’s regulation process. During the annual residential rate reviews, the city examines a sample of franchisees’ costs and rates of return, using that information in aggregate to set rates for all franchised services. The tax may cause some providers to enjoy a higher rate of return as they would not have the same burden of paying and administering the tax as those subject to the tax.

I hope this additional written information is helpful. Please do not hesitate to contact me with any questions or concerns. at bethvd@orra.net or 971-707-1683.

Portland Haulers Association

Testimony to Portland City Council *Residential Solid Waste and Recycling Rates* May 29, 2019

Introduction - Good afternoon Mayor Wheeler and members of the Council.

I am Beth Vargas Duncan, Regional Director for Oregon Refuse and Recycling Association (ORRA). In that capacity I am representing the Portland Hauler's Association (PHA) today, whose members provide the residential solid waste and recycling collection services within Portland.

- Every hauler providing residential collection service in Portland is a member of the PHA.
- PHA members work cooperatively with the city's Bureau of Planning and Sustainability (BPS) staff to provide modern and efficient waste collection services that include garbage and recycling, at reasonable rates – as noted through the recent rate review process.
- PHA members also work collaboratively with BPS staff and other stakeholders to advance opportunities for more diversity in the waste management industry.

Background – PHA greatly appreciates the city's expedited rate review action last year in response to the recycling market issues. The systemic impact on the market caused recycling costs to rise at record levels. As you know, the haulers lost a significant amount of revenue in a short period of time because of the sudden shift in market and your action was critical to stabilizing rates today in a volatile system. Not every State or local jurisdiction in other parts of the country were as quick to respond and it has been causing further disruption as a result.

The conditions are still depressed in the recycling market values and Oregon DEQ in collaboration among processors, haulers, local governments, and other stakeholders continue to identify methods to control costs, maximize the recycling of material, and educate customers about "recycling right."

Today – We support the rate adjustments city staff presented; note, PHA's rate consultant Kevin Gienger will address the Clean Energy Surcharge in his testimony. PHA agrees it is important to encourage customers to right size their garbage carts for the needs of their family. This is particularly important as we respond to the recycling market changes and continue to educate customers in order to reduce contamination in the recycling stream as part of our efforts to maximize recycling.

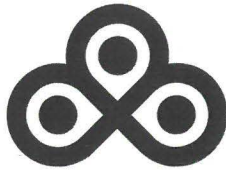
Call to action – We recognize that Oregonians continue to lead the nation in recycling and addressing recycling market challenges. We ask Portland residents to improve even more and seek the latest information on what is recyclable and what should not be in the recycling cart; everyone can reduce, reuse and recycle right.

For many decades, PHA haulers have demonstrated a strong commitment to providing excellent service to the residents of Portland while also producing sustainable results and consistent operational safety. We look forward to partnering with the city in the future and PHA appreciates the opportunity to serve Portland. We request the Council adopt the rates as presented today, noting Kevin has comments on the 1% CES.

I am happy to answer any questions.

Thank you,

Beth Vargas Duncan
Regional Director, ORRA
bethvd@orra.net
971-707-1683



189534

Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

MEMO

DATE: May 21, 2019

TO: City Council

FROM: Arianne Sperry and Bruce Walker,
Bureau of Planning and Sustainability

CC: Amanda Watson,
Mayor's Office

SUBJECT: Substitute ordinance to revise garbage and recycling rates

Bureau of Planning and Sustainability (BPS) staff has filed a substitute ordinance titled, "Revise residential solid waste and recycling collection rates and charges, effective July 1, 2019 (Ordinance; amend Code Chapter 17.102)." The proposed rate schedule in the substitute ordinance includes a 1% revenue surcharge for the Portland Clean Energy Fund.

The original ordinance was slated to be heard as part of the May 15 Utility Rates Council hearing. The ordinance was pulled from the May 15 agenda and refiled for May 22 to provide additional time for Revenue Division to post the final administrative rules addressing the Portland Clean Energy Fund 1% revenue surcharge. The question was whether the 1% surcharge would apply to three of the larger franchised haulers, or whether garbage and recycling collection would be included in the exemption granted to other utilities.

The draft administrative rules (<https://www.portlandoregon.gov/revenue/78324>), posted March 15, 2019, use the definition of utility found in City Code 7.14.040, which does not include garbage, recycling, and composting collection. The Portland Haulers Association submitted testimony at the April 3 hearing requesting reconsideration. Bureau of Planning and Sustainability (BPS) staff hoped Revenue Division would post final administrative rules settling the issue in advance of the garbage and recycling rates Council hearing. However, Revenue Division has indicated that it will not be



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able to post the final administrative rules in time for the May 22 Council hearing to revise garbage and recycling collection rates.

Since rates need to be adopted in time to notify customers of the July 1 rate change, pushing the Council hearing back again is not desirable. Therefore, BPS staff has chosen to assume the final administrative rules will align with the draft administrative rules and file this substitute ordinance with a rate schedule that includes the Portland Clean Energy Fund 1% surcharge.

If the final administrative rules do *not* align with the draft administrative rules, BPS staff will return to Council with another ordinance that removes the Portland Clean Energy Fund 1% surcharge from the rate schedule.

In accordance with the rate methodology laid out in the franchise agreement, the Portland Clean Energy Fund 1% surcharge has been included as a pass-through expense for those haulers subject to it and averaged across the entire customer base. The surcharge adds \$0.15 to \$0.20 cents to the recommended monthly rates for all customers.

The recommended rates include a total monthly rate increase of \$0.75 for most customers that accounts for the Portland Clean Energy Fund 1% surcharge, increased tipping fees for yard debris and food scraps, and higher driver wages.

Please contact Arianne Sperry (arianne.sperry@portlandoregon.gov, 503-823-5664) with questions.





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PROPOSED 2019-20 SOLID WASTE & RECYCLING RATES May ~~22~~, 2019 29

Each year, the Bureau of Planning and Sustainability conducts analysis to establish rates for residential garbage, recycling and composting collection services. The process involves a CPA review of hauler financial records for the previous calendar year and discussion by the Portland Planning and Sustainability Commission, which voted unanimously in support of the proposed rate changes.

The rates for most customers are proposed to increase by 75 cents per month, or 2.4%, due to a variety of factors, including an increase in the tipping fee for yard debris/food scraps, the Portland Clean Energy Fund 1% revenue surcharge, driver wages, and inflation.

BPS has historically included small disincentive premiums on the larger roll carts to encourage waste reduction and recycling. When the premiums grow too large, they add cost to the system, penalize larger households, and discourage customers from right-sizing their garbage containers. This year, out of equity concerns and to maintain a clean and marketable recycling stream, BPS proposes to reduce premiums on larger garbage carts. As a result, rates for larger carts will stay flat or go down.

Service levels	Proposed 2019-20 rates	Current rates	Difference	Percent of customers*
35 gallons every four weeks	\$ 25.00	\$ 24.25	\$ 0.75	6%
20-gallon service	\$ 27.90	\$ 27.15	\$ 0.75	8%
35-gallon service	\$ 32.55	\$ 31.80	\$ 0.75	51%
60-gallon service	\$ 37.85	\$ 37.65	\$ 0.20	26%
90-gallon service	\$ 43.15	\$ 44.15	\$ (1.00)	5%

*Total does not equal 100% due to the small number of customers who subscribe to other service levels, including multiple garbage containers and services that do not include regular garbage collection.

