

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CLARIFYING) RESOLUTION NO. 21-5176
LANGUAGE IN THE 2016 TRANSFER SYSTEM)
CONFIGURATION POLICY ADOPTED BY) Introduced by Chief Operating Officer
RESOLUTION NO. 16-4716.) Marissa Madrigal in concurrence with
) Council President Lynn Peterson

WHEREAS, in 2016, after a year-long process involving multiple stakeholders from the solid waste industry, local governments and Metro staff, the Metro Council adopted the “Transfer System Configuration Policy” by Resolution No. 16-4716. A copy of that Policy is attached to this Resolution as Exhibit A; and

WHEREAS, one of the primary purposes of the Transfer System Configuration Policy was to improve transparency of solid waste rates at both public and private transfer stations; and

WHEREAS, both prior to and after adoption of the Transfer System Configuration Policy, local governments in the Metro region had publicly requested that Metro take action to improve rate transparency at private transfer stations to better understand the justification for those costs because they affect the residential garbage rates imposed by the local governments on their residents. Examples of these requests are attached to this Resolution as Exhibits B, C, D and E; and

WHEREAS, in response to these local government requests to improve rate transparency at private transfer stations, the Transfer System Configuration Policy provided that, among other things, Metro would endeavor to estimate costs at its own public transfer stations in a manner that would “provide a more detailed and direct comparison of the cost of services offered at private stations;” and

WHEREAS, the specific language in the Transfer System Configuration Policy pertaining to improving rate transparency is found in Section 6 (the “Rate Transparency Section”), which stated that Metro would “[p]rovide a separate accounting of the cost of various discrete public services provided at the public stations i.e., separate out the cost of services such as wet waste consolidation and transfer, dry waste recovery, self-haul, and organics consolidation and transfer to provide a more detailed and direct comparison of the cost of services offered at private stations;” and

WHEREAS, all private transfer stations within the region are regulated by Metro and subject to the requirements of Metro Code Title V, Administrative Rules, and Solid Waste Facility Franchises, but they do not provide identical services as those provided at the public transfer stations and Metro sets putrescible waste tonnage limits for all private transfer stations; and

WHEREAS, although several private transfer stations in the Metro region provide discrete putrescible (“wet”) and non-putrescible (“dry”) waste disposal services, and although Metro distinguishes between wet and dry waste for regulatory purposes, Metro does not now nor has it ever provided “discrete” wet and dry waste disposal services, nor does it distinguish between wet and dry waste for disposal purposes; and

WHEREAS, although Metro only charges a single disposal fee for solid waste received at its public transfer stations, for fiscal years 2017-2020 Metro’s “accounting” was an *estimation* what the costs might be if Metro in fact provided “discrete” wet and dry waste disposal services at the public stations,

using forecast tonnage, working floor space, FTEs and other factors. An example of one of those estimates, labeled “Unit Costs at Metro Transfer Stations,” is attached as Exhibit F; and

WHEREAS, these “Unit Costs” estimates do not indicate *actual* costs for wet and dry waste disposal, nor could they, because Metro does not provide discrete wet and dry waste disposal services or otherwise distinguish between wet and dry waste for disposal purposes; and

WHEREAS, certain individuals and entities have taken the Transfer System Configuration Policy’s Rate Transparency Section language out of context, and they have erroneously and inaccurately asserted in public documents, public testimony and court filings that Metro has either recognized, acknowledged or otherwise admitted that it provides “discrete” wet and dry waste disposal services; and

WHEREAS, certain individuals and entities have mistakenly interpreted Metro’s “Unit Costs” estimates as *actual* costs associated with providing discrete wet and dry waste disposal services, and

WHEREAS, because the Rate Transparency Section language is potentially confusing it would benefit from clarification, especially given that it has already contributed in part to one lawsuit against Metro (*Reilly and Hoover v. Metro*, Clackamas County Circuit Court Case No. 20CV08093), and may lead to future lawsuits if not clarified; now therefore,

BE IT RESOLVED that the Metro Council:

1. Affirms that Metro does not currently, nor has it ever, provided discrete wet and dry waste disposal services.
2. Affirms that Metro provides “solid waste” disposal services as that term is used in Metro Charter Section 6(2) and ORS chapter 268.
3. Clarifies that the language in Section 6 of the 2016 Transfer Station Configuration Policy (the “Rate Transparency Section”) only described Metro’s future efforts to estimate what it might cost if Metro did provide discrete wet and dry waste disposal services, so as to allow local governments to better compare Metro’s costs to those of various private transfer stations that do in fact provide discrete wet and dry waste disposal services.
4. Finds that no further estimates of Metro’s wet and dry waste disposal costs are required to comply with the 2016 Transfer Station Configuration Policy, given that Metro has already provided four years’ worth of estimated public transfer station costs to assist local governments in their local residential garbage franchise ratemaking.

ADOPTED by the Metro Council this 6th day of May 2021.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney