

Introduction

Metropolitan Sewer Availability Charge (SAC) is required by state statute MS 473.517 subd. 3. This charge to communities (cities and other building authorities) is determined on a site by site basis and the revenue is used to pay for the "reserve capacity" built into the metropolitan wastewater system for future users (typically about 1/3 of the capital project costs of the system). This helps keep regular, volume-based, sewer fees among the lowest for metropolitan areas in the country. It also provides for the costs of wastewater demand to be borne by those communities where the service is growing and only as needed (pay-as-you-build). The SAC fee system was implemented metro-wide in 1973 and largely eliminated the market risk for communities in the building of reserve capacity into the metropolitan wastewater system. The collected metropolitan SAC fees, by law, are used only to fund the construction or betterment of the metropolitan wastewater system, an award winning system worth over a billion dollars.

SAC "credits" are a tally of regional wastewater capacity that has been 'freed up' within a community and which are used to offset metropolitan SAC for wastewater demand that otherwise would be charged to the community. Policies around SAC credits have changed over time. Current policy restricts metropolitan SAC credits to the site on which they are generated, and the primary request of the 2012 SAC Work Group was to determine whether to allow the re-implementation of SAC credits, where the freed up capacity is not needed on a site, for use elsewhere in a community.

2012 SAC Work Group

In early 2012 Metro Cities requested that Metropolitan Council Environmental Services (MCES), as well as various stakeholders, to revisit SAC rules regarding "net credits" for the Sewer Availability Charge (SAC) program. Metro Cities and MCES staff solicited volunteers from diverse communities to review the rules and determine if a consensus could be achieved for improvements to the rules. Additionally, the Council and Mayor of the City of St. Paul independently asked that the Council consider loans for small businesses needing to pay SAC and the City of Minneapolis asked for a review of those issues and all other MCES services and outreach related to SAC. The work group addressed all these areas.

The 2012 SAC work group met 5 times from July through October 2012 (minutes are attached). Work Group Members include:

- Gary Van Eyll, Metropolitan Council Member & Co-chair
- Patricia Nauman, Metro Cities & Co-chair
- Wendy Wulff, Metropolitan Council Member
- James Dickinson, Andover
- Robert Cockriel, Bloomington
- Amy Baldwin, Brooklyn Park
- Jon Watson, Brooklyn Park
- Brent Mareck, Carver (resigned)
- Gene Abbott, Lakeville
- Lisa Cerney, Minneapolis
- Pierre Willette, Minneapolis
- Patrick Trudgeon, Roseville
- Brian Hoffman, St. Louis Park
- Ellen Muller, St. Paul
- Jim Bloom, St. Paul

- Lorrie Louder, St. Paul Port Authority
- Jay Scherer, Savage
- Bruce Loney, Shakopee

Various meetings were also attended by:

- Mary Ubl, Minneapolis

Brief History on Current SAC Policy

After a stakeholder group discussion in 2005 and 2006, changes to the then current SAC credit policy were adopted and the SAC program went to a 'no net credit' system effective at the beginning of 2010. Prior to that time, a community could use SAC credits on a community-wide (net credit) basis. The calculation of SAC credits were based either on: i) the payment history of SAC for a property and ii) properties built before 1973 were "grand-parented" into the system, and both types were allowed to generate credits on site or net credits for use off site. Property use/demand was not taken into account in the determination of credits. In 2010, community-wide credits were disallowed and credits became limited to the amount needed on a specific site for a new use. The calculation of SAC credits are determined based on prior use over the last seven or eight years (the 'Look-Back Period').

The impetus for the 2010 changes centered on difficulties in accessing 1973 data, perceived inequity in long vacant or underused properties not paying regular sewer fees to help maintain sewer capacity, and fewer net credits taken community-wide mean more SAC paid to reduce SAC rate pressure. The changes were also proposed with the intent of making the program simpler to administer. The Council did not want to incent a de-intensification of development where infrastructure was already in place. Metro Cities convened a work group of city officials in 2006 to make recommendations and the final product had wide agreement.

Nevertheless, the SAC changes that were implemented effective January 1, 2010 have since generated numerous concerns, some stemming from impacts of the recession on businesses and restrictions on SAC credits, particularly the challenges associated with redeveloping properties and the inability to use net (community-wide) SAC credits in those efforts.

Recommendation: SAC Credits

The current work group finalized a set of recommendations which, *when SAC has been paid for a site*, in large measure represents a reversal of current policy on SAC credits to again allow for the use of credits community-wide. These changes are intended to both make the program more flexible for communities and to simplify the administrative aspects of the program for all parties (as SAC payment records are in good order and usually not controversial).

The changes proposed, which received unanimous support by the group, are as follows:

SAC paid at any time (1973-present) is sufficient evidence in generating potential SAC credits. In such cases, net credits can occur that can be used community-wide or left site-specific at the community's option (a one-time election with monthly reporting). The Look-Back Period and vacancy rules would no longer apply.

Also, non-conforming use credits (where SAC was not paid) would be available but limited. If a community shows either *grand-parented* (between 1968-1978) or *continuous demand* (property built post-1973 but did not pay SAC and has been in existence 10 years prior to the current determination)

on a site, those credits will be available to offset SAC charges, but only on that site. No community-wide (net) credits would be available.

Allowance for a *minor* SAC credit transfer (where determination is 10 SAC or less and upon request by the community) for use on a new site within a community. This would allow communities to move up to 10 credits from the former site of a business to its new site, before a new use occurs on the former site (credits generally are not available until a new use is determined on a site, and the availability of any credits is known).

The new rules would go into effect January 1, 2013 (existing rules would be enforced through December 31, 2012).

Additional Recommendation: MCES Services and Outreach

1. The group recommendations include a proposal that the MCES develop a SAC loan program, specifically to assist communities in helping small businesses where a SAC determination is 10 SAC or less. Such loans are authorized now under M.S. 473.517 subd. 6. After two years of availability, MCES will review the effectiveness and demand for the loan program and make the data and review findings available to Metro Cities and others upon request.

Under the recommendation, a community could make a request to MCES to participate in the SAC deferral loan program and execute an agreement with the Council. MCES would provide loans to the community on a case by case basis (community option) contingent on the community agreeing to pass through the loan terms to the property owner or responsible SAC party.

Under the tentative loan agreement, 20% of SAC would be due upfront and 80% deferred. Interest for the loans would be based on the Council's average rate on its wastewater bonds and new loans would be fixed at that rate. The terms of loans would be 5-10 years (at the community's option) with payments required annually. If there is a default on the loan, the site would not be credited for any SAC unpaid, but would be credited for the portion paid. No payments would be refunded. The community would have the option to complete the payments regardless of default by a property owner (and thus the full SAC credit would then be available for that property).

2. Community reviews are recommended to be limited to review of SAC activity no more than three years prior to the date of the review initiation. This would not relieve communities from paying SAC for demand where it becomes known to the community that SAC should have been paid but was not.
3. MCES is requested to provide regular training opportunities for community staff, and in the near term particularly around these new rules.
4. MCES is also requested to provide alternate language versions of the SAC brochure to help outreach to non-English speaking business owners and developers.



MCES AWARDS FACT SHEET

Metropolitan Council Environmental Services (MCES) manages the regional wastewater collection and treatment system for 106 communities in the seven-county Twin Cities area. A division of the Metropolitan Council, MCES also develops plans to preserve and manage the region's water resources to support regional growth, and protect public health and the environment.

MCES is renowned for excellence in many disciplines, as reflected in the national and state awards it receives. All of the awards listed here have been presented in the past 10 years.

YEAR AFTER YEAR, 99.9% COMPLIANCE OR BETTER

National Association of Clean Water Agencies (NACWA)

Among MCES's many awards, perhaps none are more respected than those given for operational excellence by NACWA. In 2012, MCES received platinum awards for several plants that have achieved 100% compliance with their clean water discharge permits for five years or more.

- The Hastings Plant has achieved 100% compliance for 21 consecutive years.
- The St. Croix Valley Plant (in Oak Park Heights) has achieved 100% compliance for 20 consecutive years.
- The Seneca Plant (Eagan) has achieved 100% compliance for 11 consecutive years.
- The Blue Lake (Shakopee) and Eagles Point (Cottage Grove) Plants have achieved 100% compliance for 6 consecutive years.

All 7 treatment plants regularly receive NACWA's peak performance award.

Minnesota Pollution Control Agency (MPCA)

At the state level, MCES treatment plants routinely collect the MPCA's top award – the Certificate of Commendation – for perfect compliance over a 12-month reporting period. In fact, MCES treatment plants regularly achieve 99.9% compliance with their operating permits (against more than 20,000 reporting points per year, including daily, weekly and annual limits).

- In March 2012, all seven MCES treatment plants (Blue Lake, Empire, Eagles Point, Hastings, Metro, St. Croix Valley and Seneca) received MPCA's Certificate of Commendation for perfect compliance with their operating permits.
- In 2011, six MCES treatment plants received the Certificate of Commendation for performance: Blue Lake, Eagles Point, Hastings, Metro, St. Croix Valley and Seneca.
- In every year from 2003-2010, at least six of MCES's seven treatment plants earned the award for perfect compliance.

COMMITTED TO ENERGY CONSERVATION

To ward off increasing energy costs, MCES launched a systemwide energy-savings campaign in 2006. By 2011, purchased-energy consumption was down 15% or more than in 2006. The reduction saved rate-payers \$2.5 million per year in energy-related costs.

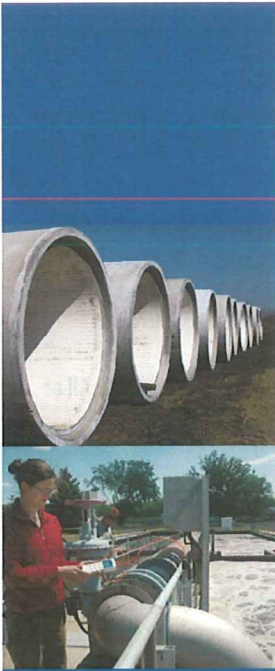
In 2011, MCES set new energy conservation goals. By 2015, the division hopes to achieve an annual purchased energy reduction of 25%, and by 2020 a reduction of 50% (compared to base year 2006).

- **2011 Gold Award:** Awarded by Xcel Energy for the most electrical conservation in an 18-month period.
- **2009 & 2010 Efficiency Partner Award:** Xcel presented MCES with consecutive awards for ongoing energy savings.



The Council's wastewater collection and treatment system has an outstanding record of compliance with its federal clean water discharge permits.

At the same time, the Council charges its customers among the lowest rates in the nation for similar-sized systems.



The Council provides water quality monitoring and analysis of the region's lakes and rivers. It also partners with public, private and non-profit groups to improve water quality, and assists with watershed planning and management.

The Council is a key player in water supply planning and research in the seven-county region.

ADDITIONAL AWARDS REVEAL DIVERSITY OF MCES EXPERTISE

MCES receives national and state awards for aspects of its work beyond wastewater collection and treatment.

- **2010 National Environmental Achievement Award from NACWA.** For MCES's public education video, "Protecting Water Resources for the Region."
- **2009 National Environmental Achievement Award from NACWA.** For operations and environmental performance for MCES's Inflow & Infiltration Program.
- **2006 National Environmental Achievement Award from NACWA.** Presented to MCES for design, construction and operation of the Metro Plant's Solids Management Building.
- **2006 Project of the Year from the Minnesota Chapter of the American Public Works Association.** For the Solids Management Building Project.
- **2006 MnGREAT Governor's Award from the Minnesota Office of Environmental Assistance.** For the Solids Management Building Project.
- **2006 Public Education Award from the Water Environment Federation (WEF).** For the Children's Water Festival, an environmental fair for area students.
- **2005 Best Large Advanced Facility, from the U.S. EPA Region 5.** Awarded to the Blue Lake Plant for excellence in operation and maintenance.
- **2004 MnGREAT Award, from the Minnesota Office of Environmental Assistance.** Presented for MCES's partnership with the Minnesota Dental Association to develop and implement a Voluntary Dental Office Amalgam Separator Program, which has reduced effluent mercury by 50%.
- **2004 MnGREAT Award, from the Minnesota Office of Environmental Assistance.** For energy efficient, sustainable design in expanding the MCES Eagles Point Plant in Cottage Grove.
- **2004 Excellence in Management Recognition from the Association of Metropolitan Sewerage Agencies.** For successfully implementing progressive management initiatives that address the wide range of management challenges facing the clean water community.
- **2003 Technical Innovation Award from the American Public Works Association.** To MCES and the Minnesota Dental Association for its Voluntary Dental Office Amalgam Separator Program.
- **2003 Clean Water Partners for the 21st Century Award from the U.S. EPA.** For effectively collecting and treating approximately 300 million gallons of wastewater every day. EPA noted MCES's work in on-site water quality enhancement demonstration.

For more on MCES, visit MCES online.

<http://www.metrocouncil.org/water/index.htm>



October 18, 2012

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 work group regarding the use of SAC credits.

Metro Cities approached MCES this summer to request a discussion of SAC policy to determine whether there might be some allowance to use SAC credits city wide. MCES agreed, and a work group was established to review the policy and make recommendations. I participated as a co-chair of this group, and several city officials from across the metro region served on the group. Metro Cities would like to thank MCES staff and Met Council members Wendy Wulff and Gary Van Eyll for their work with us and for promoting an informative and thorough process around the various policy considerations associated with recommending changes for SAC credits.

Metro Cities' policies support flexibility to allow SAC credits to be used on a city wide basis. Although we worked with MCES on the no-net-credit policy adopted in 2010, this policy has since raised numerous concerns by city officials with respect to redevelopment challenges and lack of credit flexibility, and the impacts of SAC credit restrictions on business growth and expansion, particularly in a recessive economy.

While our policies support additional flexibility around credits, Metro Cities does want to ensure that any policy changes will not compromise equity for users, will not make the program more complex and will not significantly increase SAC rates.

Metro Cities support s the recommendations outlined in the Final Report of the work group, which had unanimous consent by group participants. These changes would allow for SAC credits to be used city wide, at the city's option, with SAC paid as sufficient evidence to generate credits (with exceptions for non-conforming uses and grand-parented properties). Metro Cities further supports the recommendation that allows for minor SAC credit transfers and limiting community reviews to three years.

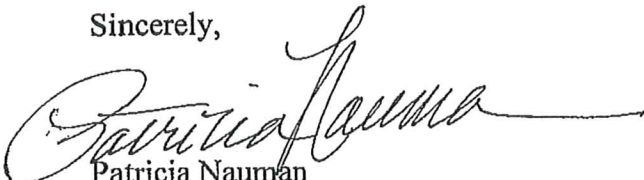
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We also support the recommendation for an MCES SAC loan program to assist small businesses, with a review of this program after a two year period to assure the program is workable from an administrative standpoint and will not create financial challenges or risks for the SAC program. Finally, we support a review of MCES' customer service policies and additional outreach efforts around the SAC program.

Under the recommendation, it is possible that SAC rates could increase, depending on growth in SAC receipts, capital expenditures, and other factors. Metro Cities will continue to closely monitor the SAC program and the impacts of any policy changes on SAC rates going forward.

Thank you again for the opportunity to comment on the recommendations put forth by the work group for the SAC program. Please contact me if you have any questions or would like additional information.

Sincerely,



Patricia Nauman
Executive Director

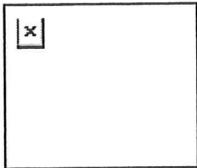
Barnebey, Kelly

From: O'Connell, Pat on behalf of PublicInfo
Sent: Wednesday, October 17, 2012 7:36 AM
To: Barnebey, Kelly
Subject: FW: Public Comment re: 2012 SAC Work Group

From: Dusty Finke [<mailto:Dusty.Finke@ci.medina.mn.us>]
Sent: Tuesday, October 16, 2012 4:30 PM
To: PublicInfo
Subject: Public Comment re: 2012 SAC Work Group

Please accept the following comments related to the recommendations made by the 2012 SAC Work Group (hearing to be held Tuesday, October 23 at 2:00 p.m.):

I strongly support the Met Council increasing the flexibility in administering credits. I also support flexibility in paying fees for business expansions as has been suggested by the Work Group. The City of Medina has a three-year no-interest payment plan for City infrastructure fees for business expansions and would support the Met Council offering a similar program.



Dusty Finke
City Planner
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CSM
PROPERTIES

October 22, 2012

Jason Willett
Director, MCES Finance & Energy Management
Metropolitan Council
390 N. Robert Street
St. Paul, MN 55101

Dear Jason,

The purpose of this letter is to support the proposed changes to the Met Council's SAC credit rules. Specifically, the SAC paid at any time on a property should be sufficient evidence for continuing credit.

The current requirement of having to prove existing use, especially if the original SAC payment was before the seven year look-back period, is an unfair and an undue burden on business and redevelopment. When a property is purchased, the information needed to "prove" past use for SAC determination, like a room-by room use map, was likely never completed, nor would it be available for future users because the past user would never have had a reason to prove something they already have. That culminates in a "guilty until proven innocent" scenario while ignoring the logic of working from past known SAC credits.

The importance of being able to carry these credits forward is a key economic factor because redevelopments always struggle with cost, and SAC costs frequently make their presence known at the end of deals, and when each side is usually towards their negotiating breaking point.

In conclusion, as representing a private real estate owner and developer, the proposed SAC credit changes have support from our company, and I would conclude by and large from the greater commercial real estate industry.

Sincerely,

Drew Johnson
CSM Corporation

Cc: Russ Mathis –City of Eagan Director of Public Works