

APPENDICIES

APPENDIX A –Explanatory Information

Applicability

The City has operated an Extra Strength Charge (ESC) program for many years. The existing ESC program requires BES sampling of each ratepayer's discharge on an ongoing basis and is only practical for ratepayers with large accounts, such as industries. In 2011, the rules expanded to allow alternative billing methodologies to charge ratepayers with low discharge volumes or no sample locations with ESCs without BES site specific sampling. Businesses are subject to the ESC rates based on a class average concentration of high strength wastewater based on sampling results from BES and other ratepayers.

Purpose

The City creates its base sewer charges on an assumed average discharge concentration for BOD and TSS. Pollutant removal costs for these two pollutant parameters are the basis for the City's residential and commercial sanitary sewer monthly user charges. The City bills ratepayers directly responsible for high-strength wastewater discharges rather than spreading that cost to the average residential or commercial ratepayer.

Regulatory Authority

The following are the Portland City Code (PCC) sections most relevant to the regulations found in these rules:

- Section 3.13.040 authorizes BES to establish administrative rules to implement portions of the PCC.
- Section 17.36.050 authorizes BES to allow use of private meters to apportion, reduce, or apply charges to a ratepayer's bill.
- Section 17.36.060 authorizes BES to assess an Extra Strength Charge on the sewer bills of ratepayers that discharge high-strength wastewater to the sanitary sewer.
- Section 17.36.100.E states that the submission to the City of false information or data may constitute fraud.
- Section 17.34.080 and 17.36.100 authorizes BES personnel to perform inspections of facilities and to collect samples of wastewater discharged to the City's sanitary sewer system. It also authorizes BES to require a sampling manhole by dischargers wanting to use City systems.
- The BES annual rate ordinance lists the Extra Strength Charge rates for the current City fiscal year.

Billing Methodology

The City will utilize one of two methodologies to bill ratepayers for ESCs.

Section 5.A. The Class Average ESC Method. ESCs are based on the average discharge concentrations of certain business classes that are commonly used by other municipalities nationwide. This method eliminates the need for the City to perform expensive sampling and the need for the ratepayer to construct a sampling manhole.

All of the classes included in the Class Average Table and subject to the Class Average Billing Method are businesses that perform food service or food processing. BES will use license lists from the appropriate agencies to identify ratepayers that should be billed using the class average ESC method.

1. Class Average Table. The Class Average Table is based on average discharge concentrations for both BOD and TSS for certain industrial ESC ratepayers and from sampling studies of additional businesses. The Class Average Table is intended to be a dynamic document and may be updated to add additional business classes, adjust average concentrations based on new data, or to add or alter approved best management practices.

3 Flow Apportionment and Estimation. Many of the small commercial facilities identified by the Class Average Table will be tenants on properties with a sewer account serving several businesses and paid by the landlord. Flow estimations have no billing overhead to the ratepayer.

The Credit Meter Program uses actual measured flow from individual tenants in their bill calculation for an administrative charge.

4 Approved Best Management Practices (BMPs) for Rate Reduction.

Ratepayers billed using the class average ESC method are not locked into a fixed rate but have the opportunity to implement certain BMPs that can reduce their ESCs and promote onsite pollution prevention.

a Food Grinder Removal. It has been shown that facilities that do not have grinders or remove them have lower BOD and TSS discharge concentrations.

b Grease Management Device Installation. Fats, oils and grease (FOG) are high in both BOD and TSS. FOG can also be a significant problem in the collection system, blocking sewer lines and causing sewage spills and basement backups. Well maintained and properly installed grease interceptors and grease traps greatly reduce the amount of FOG discharged to the sewer lowering BOD and TSS concentrations and reducing sewer line blockages.

Details about the preferred pumper program can be found at www.preferredpumper.org.

c. Combined Reductions. This rate will be established January 1, 2014 and will garner a 5% reduction off of the class average discharge rate.

d. Other BMP Rate Reduction. Approved BMPs will not be specific to any product, brand, manufacturer or supplier.

5. Custom Rates. Because the Class Average Method is based on average discharge concentrations some rate payers may dispute that their wastewater is accurately characterized. Sampling data can result in a ratepayer having a higher or lower ESC, or prove that a ratepayer has no extra-strength wastewater which removes them from the ESC program altogether.

Section 5.B

2 Rolling Average. The rolling average smoothes the ratepayers ESC rate and minimizes potential high swings of rates from month to month. The 10 samples can be over a variety of months and are averages of multiple data points. Those 10 monthly averages are then averaged to obtain the rolling average.

- a **Rolling Average Start.** The start date is intended to prevent a ratepayer's bill from being based on a single sample and sets a minimum number of samples with which a bill can be based. Production day is based on the hours of operation (such as 9-5) or a block of 24 hours for continual operation.
 - b **Reset.** The purpose of the reset is to allow a ratepayer to see immediate benefit of modifying a process or implementing treatment improvements. It is not intended as a process to allow a ratepayer to throw out high level monitoring data
- 3 **Sampling Frequency.** The purpose of this language is to ensure that the City is not spending as much or more on sampling and analysis of a ratepayer's discharge than will be recovered in ESCs. In special cases where a business discharges may vary greatly due to seasonal work, different contracts, or business practices, it may be in the City's best interest to have a sampling frequency greater than the 1/5th rule.
7. **Private Meters.** Private meters are frequently used to measure water not discharged to the sewer system due to evaporation, irrigation, or use in a product. This is existing practice and policy implemented through the Submeter Program and is not exclusive to ESCs.
- The Submeter Program charge has two additional costs – a water/sewer base charge for the new sub-meter plus a monthly charge by BES to read the sub-meter. The current cost per month is based on the latest fees on the annual rate ordinance of the City's Water Bureau and BES. As of the adoption of these rules the charge is approximately \$50 to \$55/month/meter for most Credit Meter Program participants
8. **Non-routine discharge.** This language is based on existing practice, policy, and city code 17.36.110. If a business has a spill or accident that results in very high BOD and TSS monitoring results they may be able to receive some protection of their rolling average. The business must report the non-routine discharge to the City, with the quantified volume within designated reporting times so the City may ascertain whether such a load will have impacts to City treatment systems. If the non-routine discharge is confirmed and approved by BES, then and the ratepayer would only be billed a higher ESC for the volume of the non-routine discharge incident and the data would not affect their rolling average rate.

New and Redevelopment Control Requirements

It is difficult to estimate a proposed facility's discharge volume or wastewater characteristics and accurately predict which ESC billing method will be most appropriate to use for the ratepayer. Because of this uncertainty, facilities with the potential to generate extra strength discharges are either required or encouraged to provide an adequate sampling location. The building plan review process is the most appropriate time to require a sampling manhole.

Inspection

Many site conditions must be verified through BES inspection, such as the BMPs claimed by the ratepayer for rate reduction. It is anticipated that most inspections will be scheduled based on request of the ratepayer and will occur during the hours of business operation. Inspections related to complaint response or enforcement follow up may be unannounced.

Variance Requests

This rule provides a ratepayer with many options to customize the calculation of their ESC. Ratepayers are encouraged to use alternative method and variance requests as an early method of resolution for detailed items related to data submittals such as timeline, number or duration of sampling events or class identification.

If a ratepayer is not satisfied with the variance determination they can request a more formal administrative review or appeal (See Section 10).

Enforcement on Fraud and False Statements

The rate discount structure and flow estimation language of this rule provide a strong financial tool for compliance in lieu of more traditional enforcement. BES enforcement will likely result in the loss of BMP discounts or discounts for flow reductions, resulting in higher charges to the ratepayer.

There may be cases for more formal enforcement in case such as sample tampering, and submission of false meter reads or data. These issues may constitute fraud or theft of services, and may require civil penalties or referral for criminal investigation.

Administrative Review and Appeals

Section 10.A. Allowable Review and Appeal Items. Allowable appeal items are those that relate to the accuracy of a particular ratepayers assessed ESCs.

Section 10.B. Non-Appealable Items. Items not eligible for appeal are those that challenge the language and intent of these rules, and the underlying ESC rates.

Section 10.C. Administrative Review Submittal to BES. If BES determines additional information is necessary to make a determination this will be communicated to the ratepayer with the opportunity to provide more evidence supporting their case.

Section 10.D. Evaluation and Final BES Determination. The ratepayer should address these criteria in their appeal request. These criteria will be used to provide consistent and fair determinations of ratepayer requests. The determination should as much as possible resolve the issue and put in place measures to prevent future reoccurrences. Final determination will be provided within 14 days unless additional fact finding is necessary in which case a new deadline will be set by BES.

Section 10.E. Appeals to the City Code Hearings Officer. An appeal to the City Code Hearing Officer shall be considered the final step in the appeal process.