

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 89-316
CODE SECTION 2.08.040(e) TO)	
AUTHORIZE COLLECTION LITIGATION)	Introduced by Rena Cusma,
AND SETTLEMENT)	Executive Officer

WHEREAS, The Metropolitan Service District's credit policy has been established by ordinance in Metro Code 5.02.060 providing the terms of credit for commercial haulers using Metro solid waste disposal facilities; and

WHEREAS, Enforcement provisions of the credit policy for outstanding balances include revoking credit privileges or revoking disposal privileges; and

WHEREAS, Litigation may be the only means available to obtain payment on delinquent accounts; and

WHEREAS, Time is often critical in collection cases to respond to reasonable settlement opportunities, practical deadlines, and possible bankruptcy timelines; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY
ORDAINS:

Section 1. Metro Code 2.08.040(e) is hereby amended:

"(e) Appear, commence, prosecute, defend or appeal any action, suit, matter, cause or proceeding in any court or tribunal when mutually requested by the Executive Officer and the Council when, in the discretion of the General Counsel, the same may be necessary or advisable to protect the interests of the District. The General Counsel shall not appear on behalf of the District, without the mutual consent of the Executive Officer and Council as appropriate in any action, suit, matter, cause or proceeding in any court or tribunal.

"The Executive Officer may authorize Metro's General Counsel to commence litigation or settlement for the collection of a continuously delinquent credit account more than forty-five (45)

days past due when litigation or settlement is advisable to protect the interests of the District. General Counsel shall report all collection litigation or settlement activities to the Executive Officer and Council at the earliest opportunity."

ADOPTED by the Council of the Metropolitan Service District
this 9th day of November, 1989.

Mike Ragsdale
Mike Ragsdale, Presiding Officer

ATTEST:

Gwen Ware-Barrett
Clerk of the Council

LS/gl

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 89-316 TO DESIGNATE THE DISTRICT'S EXECUTIVE OFFICER AS METRO'S REPRESENTATIVE FOR THE PURPOSE OF TAKING LEGAL ACTION TO COLLECT THE PAST DUE ACCOUNTS OF CREDIT CUSTOMERS WHO DISPOSE OF SOLID WASTE AT METRO-OWNED FACILITIES

DATE: September 21, 1989

Presented by: Rick Ford

PROPOSED ACTION

Amend Metro Code 2.08.040(e) to designate the Executive Officer as the District's representative in any legal action that, in the opinion of the Executive Officer, may be necessary for the collection of an account more than 45 days past due. The Executive Officer may take legal action including reasonable settlement only when a credit customer's account is continuously delinquent and credit terms have been revoked by Metro for the disposal of solid waste at any facility owned by the District.

FACTUAL BACKGROUND AND ANALYSIS

Metro Code 5.02.060 provides the credit policy of the District for the disposal of solid waste at Metro facilities. Essentially, a commercial entity may dispose of solid waste at any facility owned by Metro on a credit basis rather than immediately pay the appropriate fee at the time of disposal. This commercial entity must first submit to Metro an application on a form provided by the District. The commercial entity may dispose of solid waste on a credit basis once the application is approved by the District.

Credit customers are expected to pay in-full the balance of their account within 30 days following the month in which charges are incurred. Failure to pay in this 30-day time period will result in the assessment of a finance charge of 18 percent per annum.

Authorization is provided in this section of the Metro Code to revoke a customer's credit privilege when the customer's account is 45 days past due. In this situation, the District may consider placing the customer on a "cash only" status at Metro owned solid waste disposal facilities. This status, if invoked by the District, will not change until the customer's account is paid in-full or the account has a balance less than 30 days past due.

Lastly, a customer who has an account 60 days past due may be denied permission to dispose of solid waste at a Metro-owned facility. When a customer is denied such access, the customer must first pay in-full the account balance as well as all finance charges before the customer

may again dispose of solid waste at a Metro owned facility. It is at this point that prompt legal action by Metro may be desirable in order for the District to secure as favorable a position as possible to recover monies owed Metro.

There are situations that arise during the process of collecting delinquent accounts when litigation is the only means available to obtain payment from a customer owing monies to Metro. Such a legal action typically occurs when all standard collection techniques have failed. In most instances, these accounts represent significant dollar values to the District.

Metro Code 2.08.040(e) provides in part for mutual consent between the Executive Officer and the Council before the District's General Counsel may be directed to take legal action "in any court or tribunal." The proposed amendment would provide an exception to this section for the Executive Officer to take legal action including reasonable settlement when time is critical to Metro's success in collecting monies from a customer with a delinquent account.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 89-316.

RFF/srs
a\staffrep

INTERNAL AFFAIRS COMMITTEE REPORT

ORDINANCE NO. 89-316, AUTHORIZING THE EXECUTIVE OFFICER TO TAKE
LEGAL ACTION TO COLLECT PAST DUE ACCOUNTS

Date: November 2, 1989

Presented by: Councilor Bauer

COMMITTEE RECOMMENDATION: At its October 26, 1989 meeting, the Committee voted unanimously to recommend Council adoption of Ordinance No. 89-316. Voting yes were Councilors Collier, Hansen, Ragsdale and myself. Councilor Knowles was excused.

COMMITTEE DISCUSSION/ISSUES: Ray Phelps, Director of Finance and Administration, presented the staff report. He indicated this Ordinance amends Metro Code Section 2.08.040(e) to authorize the Executive Officer to direct General Counsel to commence litigation for the collection of continuously delinquent credit accounts. This will enable a more timely response in situations where it is important to move quickly to institute legal proceedings against persons owing the District money.

Councilor Hansen raised a question about Metro's policy of arbitrarily cutting off persons disposing of solid waste at District facilities. He asked in those situations where does the waste go? He indicated perhaps the District should work with local governments to assure that in these circumstances the person in arrears should not be collecting solid waste. Committee members concurred that this is a good issue to pursue and Chair Ragsdale referred it to the Solid Waste Committee for consideration.

LB:DEC:aeb

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