RATE REVIEW COMMITTEE
MEETING MINUTES
December 4, 1994

RATE REVIEW COMMITTEE MEMBERS

Ruth McFarland, Chairperson
Andy Thaler
Steve Schwab
Shirley Coffin
Barry Bennett
Monica Hardy

METRO

Bruce Warner
Roosevelt Carter
Judith Mandt
Paul Ehinger
Dave Given
Leo Kenyon
Marv Fjordbeck
Connie L. Kinney

GUESTS

Diana Godwin, Regional Disposal Co.
Michael Sievers, Pacific/West
David White, ORRA
Lynne Storz, Washington County
Steve Miesen, BFI
Michael Sheehan, O/S
Marty Howard, Atty, A.C. Trucking
Zach Wright, Atty, A.C. Trucking
Robert McCullough, Atty, A.C. Trucking
Matt Samwick, Atty, A.C. Trucking

The meeting was brought to order by Chair, Ruth McFarland. Chair McFarland asked for approval of the Minutes of 3/96. Ms. Hardy commented that a letter she submitted to the Committee at that meeting did not accompany the Minutes as was requested. Ms. Hardy provided a copy of that letter and asked that it become a part of the minutes to this meeting. With that amendment the minutes were approved as submitted.

Chair McFarland said that although there was only one agenda item to be discussed at this meeting it was a very important item. She asked Mr. Carter to please introduce the subject of the agenda item.

Mr. Carter is the Budget & Finance Manager for the Regional Environmental Management Department at Metro. Mr. Carter gave background information regarding the Metro Code and Executive Order No. 25 which covers site franchising and establishes procedures for processing applications and rate adjustment requests for solid was disposal franchisees as established February 1986. As set forth in these provisions, Metro formally notified A.C. Trucking of Metro's intent to review its transfer and transport rates at the Forest Grove Transfer Station. As set forth in Resolution No. 96-2411A, the Metro Council authorized the commencement of a review of the rates for Ambrose Calcagno, Jr., doing business as A.C. Trucking Company, for the operation of the Forest Grove Transfer Station and directed the Rate Review Committee to undertake a review of the rates and to complete its review by December 10, 1996. Since that time, and in an effort to reach a better understanding, Regional Environmental Management Department entered into a Confidentiality Agreement with A.C. Trucking, Inc. to enable the production of additional information. In addition, AC Trucking has signed a Letter of Intent to USA/Sanifill, Inc. to sell its Forest Grove Transfer Station. Mr. Carter then introduced Paul Ehinger and David Given to proceed with pertinent technical aspects of the review thus far.

Chair McFarland said that from this point forward we would keep tab on the amount of minutes each party takes for their presentation in order to give an equal amount of time to all parties. Chair McFarland said that immediately prior to convening this meeting she was instructed by the Metro Council to refrain from any final decisions tonight and that the Council would revisit this review at its January REMCOM meeting.

Paul Ehinger is a Senior Engineer in the Regional Environmental Management Department, Metro. Mr. Ehinger said he was assisted in the review process by Dave Given, Associate Management Analyst and the Consulting firm of Sheehan Consultants. Mr. Ehinger said Metro's consultant, Dr. Sheehan states that the methodology set forth for review of rates is called a "Cost of Service Return on Capital" method. In other words, we determine the rate needed for operating the firm to include: operating and administrative expenses, capital recovery (depreciation), and a return on the investment which is defined by the rate base. To get a rate per ton, you divide by the estimated tonnage. In our process, we estimate the expenses presented for reasonableness. If they are expenses which occur between related companies we review to determine whether those costs are at least similar to what we would have in an open market, or if they are allocated between companies, are they allocated reasonably between the companies. Our general guidance is the benefit to the ratepayers commensurate with that cost. We were forced to base our analysis on 1995 A.C. Trucking costs, because in December 1995, we requested that they propose a cost and support it. In February, 1996 we received financial statements and up until the past few weeks, that is the only information we have received to make an evaluation. One other observation was our discovery that A.C. Trucking was bringing curbside material in and hauling off-site. We were unable to get information as to whether or not they had segregated these costs. We disallowed these costs because it appears they are costs associated with the hauling company, and not with the transfer or transportation functions which pertain to the franchise. Mr. Ehinger continued with his review.

Monica Hardy asked if the underlined items were Metro's adjustments? The answer was yes.

Mr. Ehinger said that under current guidelines, items such as public relations, entertainment and travel appeared excessively high for this type of business. Another area where expenses appeared high was "contributions." Mr. Ehinger said that in reaching the staff's determination, they researched similar solid waste entities in the area to make comparisons on the type and extent to which expenses were incurred. Mr. Ehinger said that included in A.C.Trucking's capital account in 1995 was $900,000 of "goodwill". The Metro Code prohibits us from including intangible assets. A number of years ago A.C. Trucking asked for a 15% return on their rate basis where they had a similar capital structure. Dr. Sheehan reviewed a number of other solid waste operations in the general area and came up with an average return of 15.5% on equity and so staff felt that 15% represented a reasonable rate of return. Because all equity appears to be debt equity, we made no adjustment for income tax. Based on this we developed a rate per ton for the transfer and transportation activities of A.C. Trucking of $16.74.

Chair McFarland said Rate Review Committee members could ask questions of either staff or A.C. Trucking at this time.

Monica Hardy said that to summarize, this review was based on 1995 A.C. Trucking financials, and you (Metro staff) disallowed the numbers in brackets for purposes of setting your rate base (I am looking at operating and administrative expenses)? Mr. Ehinger said staff used three components: Operating and administrative expenses, capital cost recovery (depreciation), and return on the rate base other than "goodwill," there were only minor adjustments to the operating and administrative category.

Ms. Hardy said then under other operating expenses and other administrative expenses, those were allowable totally. And only the ones that were challenged are itemized here? Mr. Ehinger said that was correct. Ms. Hardy asked what Attachment 3 was. Mr. Ehinger said that was depreciation. Ms. Hardy noticed that "goodwill" there was 66,000 and you said it was $900,000. Mr. Ehinger said that $900,000 was the asset value placed on the balance sheet -- actually it was a million and then they depreciated it over about 15 years.

Mr. Given said there were two components of this: One you have the "goodwill" remaining that has been unamortized which would be part of the rate base, and then you have the annual amortization that would show upon the second item here. So the annual amortization is being disallowed and the remaining "goodwill" still on the books is being disallowed in calculating the rate base.

Ms. Hardy asked what was the rate base? Mr. Ehinger said it was the measure of the amount of money that was invested in the firm, which consisted of two components: the fixed assets of the firm, the unappreciated book value of the trucks, buildings, etc., plus the working capital of the firm which is essentially the current assets of the firm minus the current liabilities.

Ms. Hardy asked so the return on that is what is reasonably expected to be returned is based on those components? Mr. Ehinger said that was correct. And Ms. Hardy asked: and A.C. Trucking's figures and your figures are widely differing because of these allowances? And Mr. Ehinger said he said that was correct.

Mr. Bennett said that on attachment 2, the adjustments for administrative expenses, on the number of adjustments, some of them are explained (how you arrived at your number) others are not. Some are substantial, others less. For example, number 5, accounting moves from $41,000 to $14,000; utilities reduced from $19,000 to $10,000; public relations down to $200 and travel reduced to $2,000.

Mr. Ehinger said that the first one, Accounting $13,000. After requesting information from A.C. Trucking and receiving none we used an historic figure. Utilities was the same, and in this instance we used a slightly higher number than historical figures. Public relations is a little different, because we believe the cost is excessive. Dr. Sheehan reviewed policies from other regulated solid waste entities in the Northwest and found that in general, the solid waste industry allowed Yellow Page Advertising and brochures. Travel was another one that was hard to understand and we looked again for guidance towards what other regulated solid waste entities allowed which was 1,000 miles of travel at .50 cents per mile, $150/per day for 10 days. .

Mr. Bennett said it was not clear to him what the "confidentiality of documents" order was and asked if Metro had received any additional documentation. Mr. Ehinger said Metro had received more documents and was promised more, but at this time there has been no receipt of documents which would serve to "change" the staff recommendation.

Ms. Hardy asked when the rate was last approved, was it 1992? Mr. Ehinger said a rate review was required once per year. Ms. Hardy replied, so it has been climbing steadily every year and now you are trying to get it back down? Mr. Ehinger said that was correct.

Chair McFarland explained to the committee that the customers of the region really have no choice but to come to the person that Metro franchises. She said it is our responsibility to see that certain costs are not charged to the customer where they have no alternative but to pay.

Chair McFarland said the equivalent of time allotted to A.C. Trucking would be 32 minutes.

John Stride, attorney with Tonkon, Torp, Galen, Marmaduke & Booth, representing A.C. Trucking. With me is Matt Samwick, attorney for A.C. Trucking, their local counsel, and also Robert McCullough, consultant to A.C.Trucking's staff. Mr. Stride's telephone number is 802-2034, 888 SW 5th Ave., Portland, Oregon, Mr. Samwick's address is 621 SW Morrison, Suite 1200, Portland, Oregon, Mr. McCullough's phone number is (503) 771-1090.

Mr. Stride asked the Rate Review Committee members to introduce themselves. Mr. Stride acknowledged that he had requested the RRC to disclose conflicts of interest as required by Chapter 1044 through Metro counsel and for the record, that has been accomplished. Mr. Stride said that this review process, although Metro has reached before in terms of having to set rates is not a process that Metro has gone through before. Mr. Stride continued, so the rate making model that Metro has adopted is new for Metro and new for us. It does require keeping some standards that are set for rate making and regulated entities. Mr. Stride said that the question is whether you function with that model as Executive Order 25 or some other alternative means of determining rates such as price comparison. Executive Order 25 allows for both and we will present you (RRC) with information on both of those methodologies of determining rates. Mr. Stride continued with a history of A.C. Trucking. He said it was a family owned business since 1929 in Washington County. The transfer station was built in 1985 by the family and the family invested its own capital getting the station started. The transfer station hasn't recovered those costs as do other companies that contract with Metro such as Jack Gray and Waste Management for Capital Expenditures, etc. It is used by 13 separate haulers in the Washington County area predominantly and by five local businesses who bring their solid waste to that station. At the transfer station, A.C. Trucking performs a full range of transfer station services, unlike the companies that Metro contracts with at its own transfer station -- Metro South and Metro Central. It performs both the receipt of the solid waste; it runs its own scalehouse, it does its own transfer and transport to the landfill. And it uses its own capital for reinvesting in its own business. Mr. Stride continued with slides showing the history of the rates since 1988. Mr. Stride said that recently an agreement between A.C. Trucking and Metro staff was made to enter into a Confidentiality Agreement that was ordered by the Metro Council during its meeting last month. He said they were able to get the confidentiality agreement placed and immediately started to provide documents to Metro staff. He said staff projected 80,000 tons of solid waste and A.C.Trucking projects a different figure because some of the tonnage is demolition tonnage which doesn't need to be hauled there; some of it is flood material (what might be called a 35-year flood which triggered much discussion); and there will also be Material Recovery Facilities (MRF's) recycling station there to take some of that material.

Note: Mr. Stride has provided Metro with hard copies of the slides presented at the December 4 meeting and they are included as part of the record of this meeting.

Monica Harding asked about what the purpose of the confidentiality agreement was; was it so as not to disclose as part of a public record, or what? Mr. Stride said that basically A.C. Trucking is a regulated entity and there are other related entities that have common ownership from which there are costs allocated, some to A.C. Trucking, some to the related entity. He said these related numbers really are private numbers of the business owners. He said they were happy to show everything for A.C. Trucking. But in order to understand those numbers, it was necessary to provide information on the related entities but only under a confidentiality agreement. He said some of these entities were related to solid waste, others only tangentially related.

Mr. McCullough continued with the presentation for A.C.Trucking. He said the regulatory approach he used for computing the rate is used all over the continent but A.C.Trucking had never used that approach before. We discovered that some of the numbers were inappropriate but I think we've gotten the nuts and bolts understood now. We also looked at your solid waste information system, your annual reports, budget documents and we compared Metro South and Metro Central with the staff proposal for A.C.Trucking. (a spreadsheet was projected at this time). He said these are not final numbers. He said it appears that we have almost a $30 dollar difference between the staff proposal and Metro facilities. He said he wasn't sure that meant that Metro facilities are too expensive, he doesn't know. But he does know that there was a big difference and it worried him. He said there was a big difference for a pretty simple, common sense reason. If in fact there is no equity in A.C.Trucking, that means there is no money in the company, and if that is true we may be talking about putting a local businessman out of business. Mr. McCullough then used a projection of a pie chart showing the breakdown of Metro's fees). He said that transfer and transport were a third of the total costs.

Mr. McCullough continued describing how and what methods were used to compute the rate for A.C.Trucking. He said they looked at what the rules are. He said Metro has adopted Order 25, and it looks to him to be a pretty solid piece of work. Very standard application of the rules and theory adopted pretty much across the country. Using a slide presentation Mr. McCullough said the basic regulatory formula is: Revenue Requirements = Expenses + Depreciation + Return. Expenses are wages and out of pocket expenses. He said that A.C.Truckings 1997 rates, without additional Metro taxes and fees should be $7.69/ton.

He said he was worried when staff used figures that were two years out of date. He was also critical of staff using the State of Washington firms as a model for average expenses because Washington was clearly out of the region. A.C.Trucking's results indicated that the rate should be $70.69 which is comparable to the $75.00 we charge.

Chair McFarland now reminded Mr. McCullough that he had 12 minutes left to complete his presentation.

Chair McFarland also reminded Mr. McCullough that staff used the figures presented to them by A.C.Trucking, and if they were two years out of date, that was unfortunate but all that was available.

Mr. McCullough continued with his presentation and agreed with staff that they should not use actual numbers for "goodwill" to compute the rate figure.

Chair McFarland commented that Mr. McCullough was talking around the fringes and asked if any of Metro's transfer stations were comparable to Forest Grove. Mr. McCullough showed some slides and then gave reasons why A.C.Trucking runs more economically, e.g., they are computerized at the scalehouse. So they don't have the large manpower expense at the scalehouse. Chair McFarland said that on the other hand wasn't A.C.Trucking paying an exorbitant rental rate on the computers? He said the computer item was high but its lower than 10% of the comparable costs of manpower.

Mr. Thaler asked if there were costs other than "goodwill" that concurred with Metro staff to eliminate? Mr. McCullough said there were a variety of things that they had concerns with and they raised all of those with staff. He said that currently he thinks that staff has not come to see the wisdom of their (A.C.Trucking) position yet, and that frankly common sense says they need to use '97 numbers and I think after we talk that through we are likely to win that argument. Some of the other issues will just have to be talked through.

Chair McFarland wanted to know how they got '97 numbers? He said the number one source was Metro through their forecasts. Chair McFarland said, then you recommend that we use projected estimates rather than real numbers which we have?

Ms. Hardy asked if the Committee would be provided the new numbers and Mr. McCullough said he would be glad to provide them.

Marv Fjordbeck commented that the numbers that have been talked about are the subject of the confidentiality agreement which Mr. Stride said, in Mr. Fjordbeck's opinion incorrectly, the Council ordered the staff to enter, that's not Mr. Fjordbeck's recollection. But the confidentiality agreement says the company will provide information to the parties and we will not disclose them. So if you want new numbers, you have to get it from the applicants. He said that staff have been provided with those numbers in a number of areas and it is his belief that the staff has not been persuaded.

Chair McFarland commented that that was part of the report. That they believe that the amount of information that they have thus far received has not materially changed the position.

Ms. Hardy said then they were being asked to review something with numbers that are basically incorrect.

Marv Fjordbeck said that unless the applicant provides the committee with different numbers.

Mr. Stride said that what they were suggesting was that a proper rate review has to be a project rate. Therefore you have to project the expenses and assets of that year not use historical figures. One problem is there is a difference in the recognition of assets to debt, and the second is in using the debt properly in formulation of Executive Order calculations.

Mr. McCullough said number one, its the wrong year, and your right that's only going to be about 6%; number two is that they assume no equity and no taxes paid on the equity; number 3 is that they have out-of-date capital component figures; and, number 4 is that they are using some of the numbers which are inconsistent with Metro's own forecast for 1997. He said all of those have an impact. He said a case in point is that they are using 80,000 tons and SWIS forecasts 76,000 tons and that assumes there will be no additional impacts from MRF's.

Chair McFarland said she disagreed with him and asked staff to respond, particularly how staff arrived at the "no income.".

Mr. Ehinger said that was not an assumption. He said that if you had $100,000 (that's the same numbers that they used in the slide), of interest showing on the financial statements, (and I can't say the exact numbers that go with debt), our analysis indicated that debt at 8% interest for a business. There appeared a note at the bottom of the financial statements which said that all of the assets of this firm are used to secure a larger note for this and related businesses. And that even no liability showed up on the financial statement for that loan, that loan had to be about a million dollars. We used 1995 costs and 1995 tons. Mr. Ehinger said it was almost one year to the day that they requested a rate in support of their financial information.

Mr. Bennett asked what exactly was A.C.Trucking's disagreement with staff. It is not clear if staff is questioning their credibility or their methodology.

Mr. Fjordbeck again cautioned A.C.Trucking about breaching the confidentiality agreement.

Mr. Thaler said he just didn't have enough information. He had nothing to compare to.

Ms. Coffin commented that even with the new '97 numbers that the rate calculations didn't change much.

Mr. Thaler said the $100,000 worth of interest amazed him. He said that if we are talking about a group of related companies, the allocation of costs can be subject to question.

Chair McFarland said that we all needed to learn more, she sincerely felt this. She said that the Metro Council has asked RRC to deliberate until after the first of next year and she hoped the committee members would be available to meet at least one more time before trying to make a decision.

The clerk of the committee asked Mr. Stride if he would provide her with hard copies of the slide presentation and he said he would be happy to do that. At the time this summary was prepared all of the documents were presented with the exception of the spreadsheet.

Respectfully submitted:

Connie L. Kinney
Clerk
Attachments
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PRESTON GATES & ELLIS
ATTORNEYS

MONICA HARDY

February 22, 1996

Solid Waste Rate Review Committee
METRO
600 NE Grand Ave.
Portland, OR 97232

Ladies and Gentlemen:

In the interest of full disclosure of potential conflicts, I write this letter and ask that it is included in the minutes of the Committee. When I was originally nominated and appointed to this committee, I was employed at First Interstate Bank. However, in October 1995, I became employed at the law firm of Preston, Gates and Ellis, as an associate attorney. My area of practice is Municipal Bond Finance and my department has recently been retained by Metro to act as Bond Counsel for all bond financing matters, except solid waste issues.

Although this will have no effect my ability to perform my role on the committee, pursuant to the government ethical rules, I need to inform the committee that other attorneys in my firm have or are currently representing the following entities: Washington County Haulers Association, Nicholas Recovery, Inc., Washington County Transfer Systems, Inc., Washington County Drop Box, Inc., West Side Recycling, Inc. and Oregon Recycling Systems, L.L.C. In addition, Preston has also represented individual haulers on individual matters. However, I have no personal contact or perform any work for these entities.

Sincerely,

PRESTON GATES & ELLIS

Monica Hardy

Monica Hardy

cc: Dan Cooper
MH/agm

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December 6, 1996

HAND DELIVERED

Ms. Connie Kinney
METRO
600 N.E. Grand Avenue
Portland, OR 97232

Re: Rate Review Committee Meeting of 12/4/96

Dear Ms. Kinney:

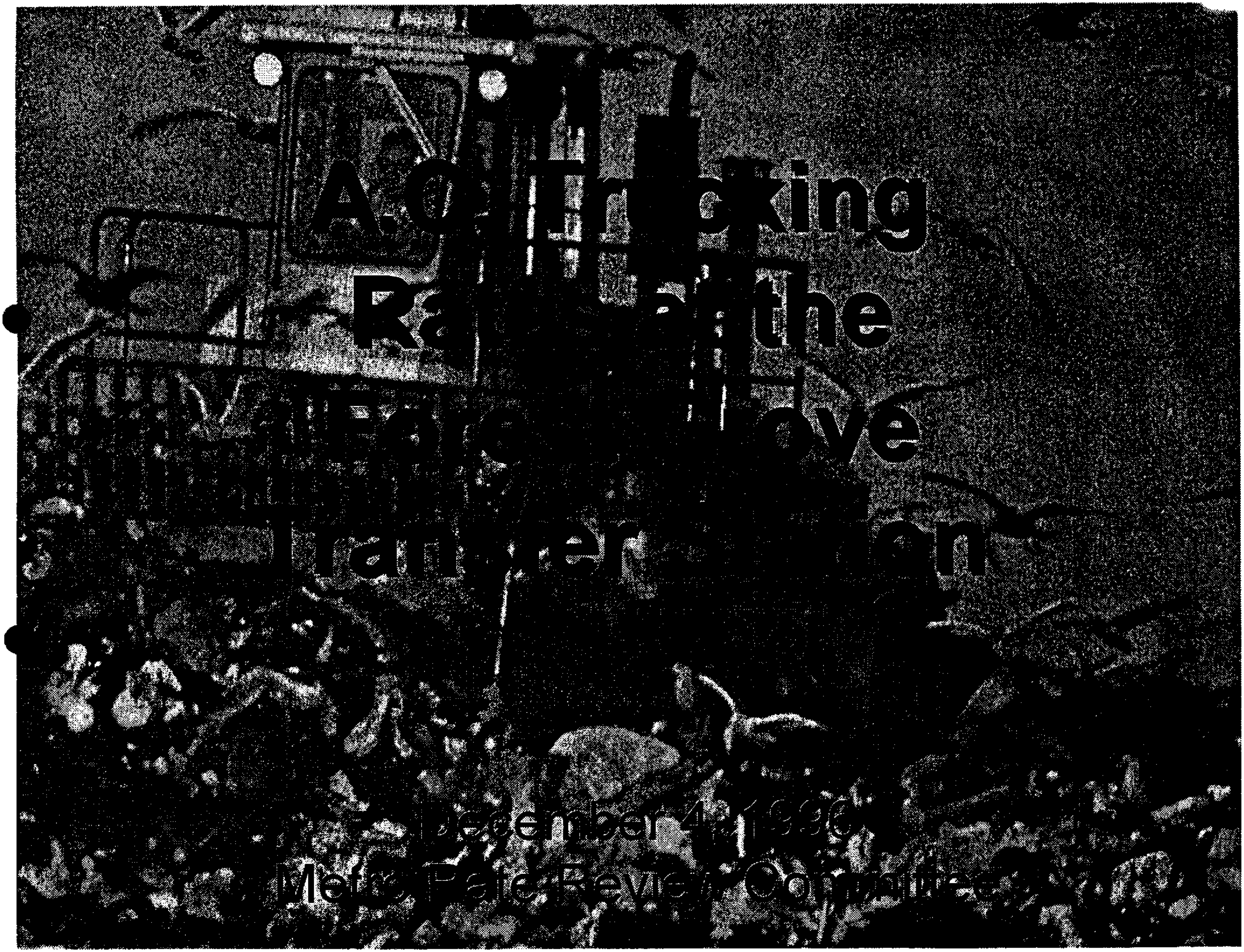
Enclosed are copies of slides presented by A.C. Trucking at the Rate Review Committee meeting on December 4, 1996. I understand that you want to make these slides part of the minutes of that meeting.

Please call if you have any questions.

Very truly yours,

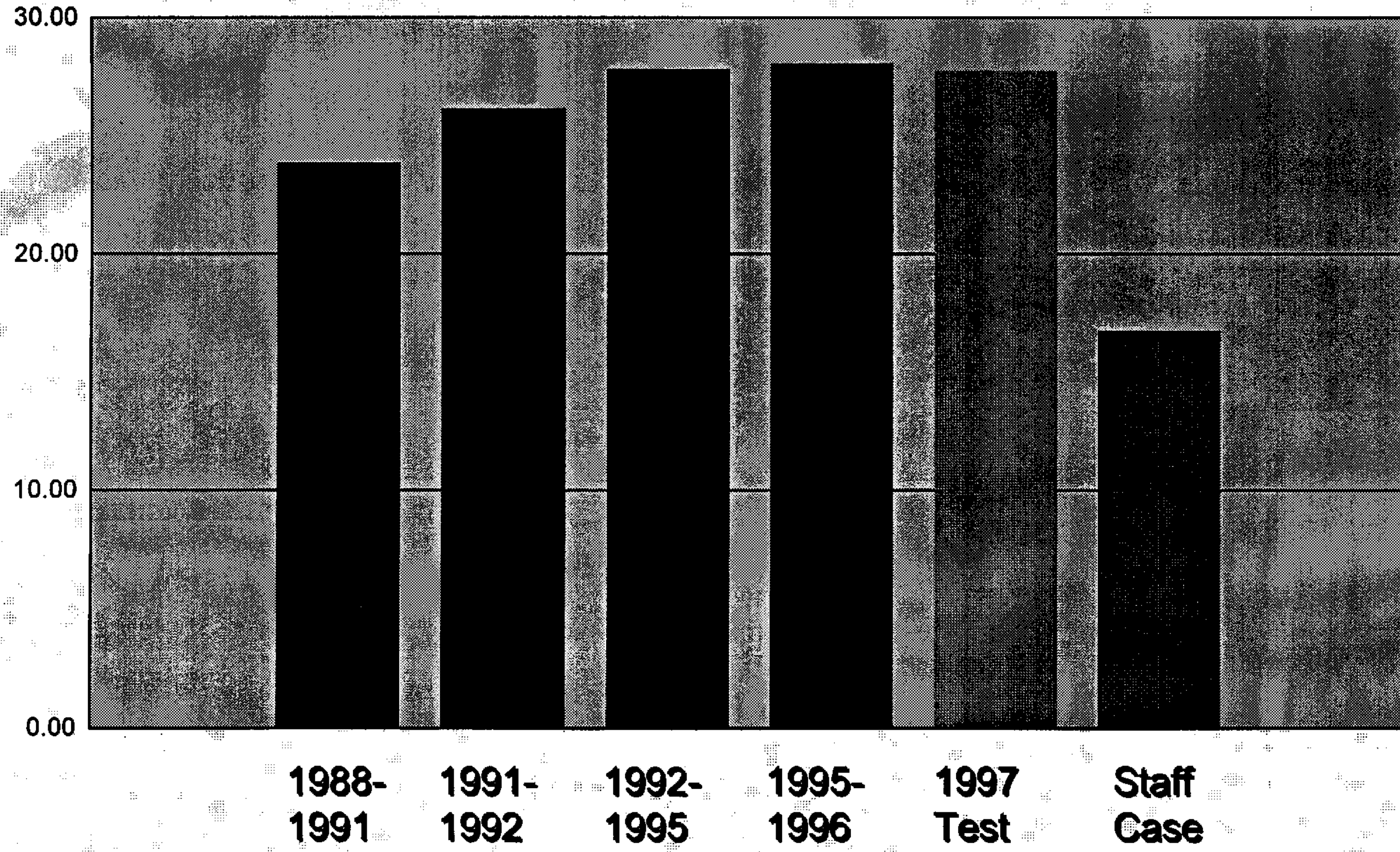
Zachary W.L. Wright

ZWW:jc
Enclosures


December 4, 1996
Metro Rate Review Committee

Historical Background

Transfer Component History for AC Trucking Rates



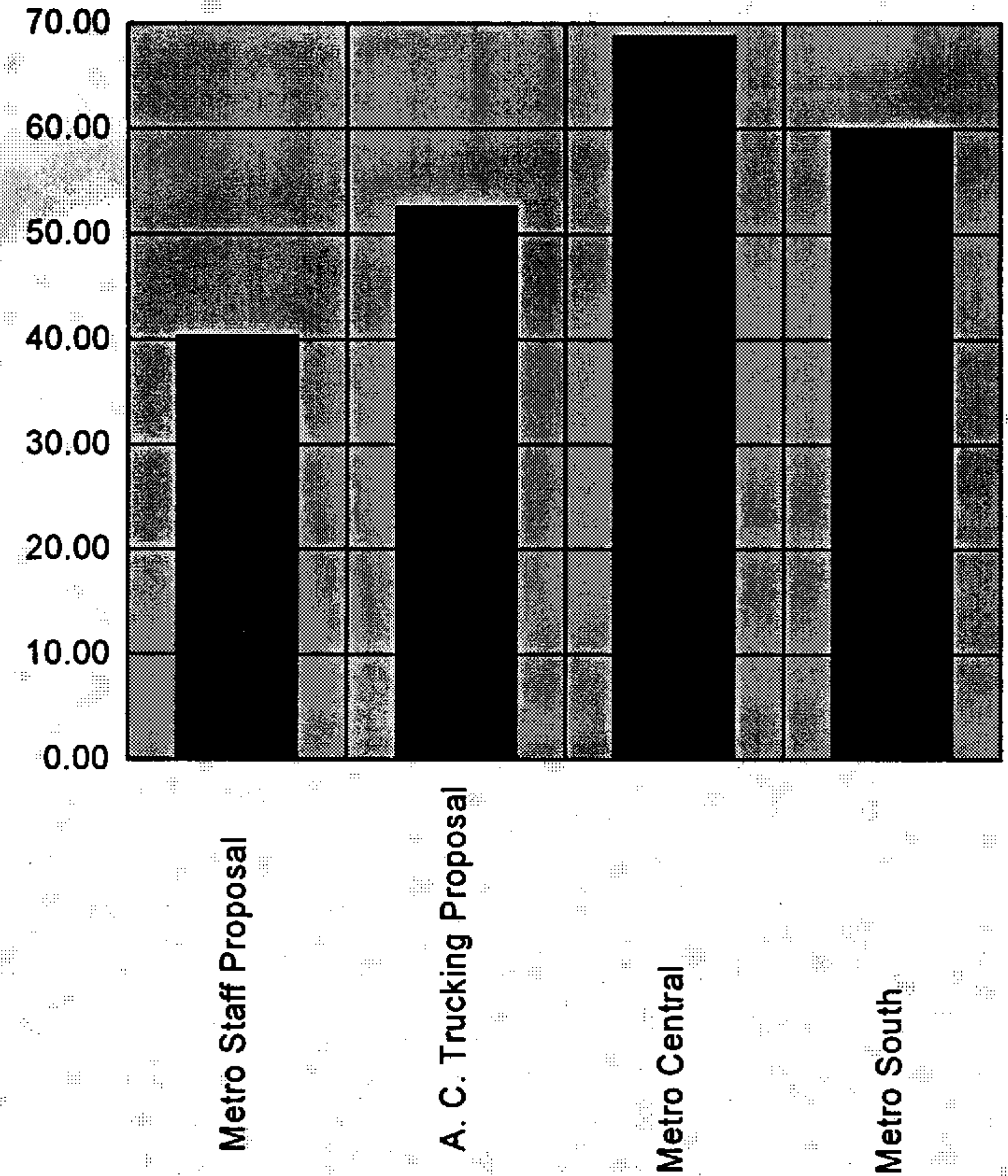
Service Provided

- Transfer Station
- Drop-in Recycling
- Curbside Recycling Transportation
- Reports to Metro

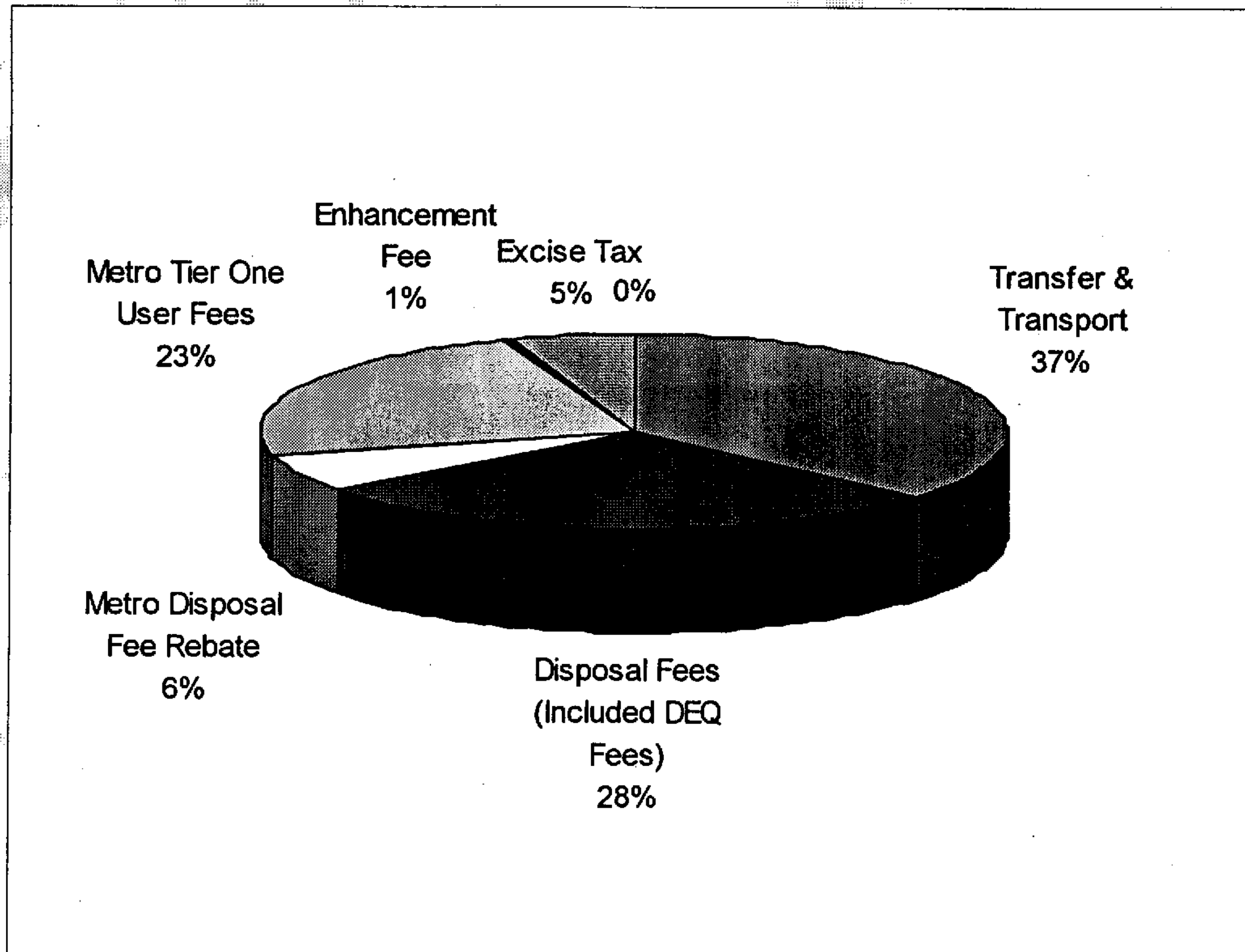
Efficient Operation

- Forest Grove transfer station has maintained the lowest cost in the Metro area
- Contirubtes the largest share of its total revenues to the Metro budget of the three transfer stations
- Forest Grove is highly efficient and uses less manpower per ton than the other transfer stations.

Economic Tip Fee



Cost Components



Traditional Public Utility Service Ratemaking

The rules for public rate making have been in place for over 100 years

From 200 to 300 billion dollars annual are conducted under these rules

The rules specify a very formal method of calculating costs and generating rates

These rules are now used throughout North America, Europe, and Japan

Basic Regulatory Rules

- The basic regulatory formula is:
  Revenue Requirements = Expenses + Depreciation + Return
- Expenses are wages and out-of-pocket costs
- Depreciation is the "wear and tear" on equipment
- Return is the cost of equity and debt used to provide the capital to run the business multiplied by the expected rate base

Results

A. C. Trucking's 1997 rates (without additional Metro taxes and fees) should be $70.69/ton

- Revenue Requirements = Expenses + Depreciation + Return

  OR

- $1,934652 = $1,579359 + $124,125 + $231,168

Staff Assumptions

- Staff used data nearly two years out of date: Forest Grove would face two years of cost increases without additional revenues
- Staff assumed no equity at all: any cost increases would be taken from debt -- this is sysnonymous with bankruptcy
- Staff's disallowances reflect early workpapers -- workpapers that have subsequently been corrected and brought up to date
- Staff's assumptions appear inconsistent with the Solid Waste Information System

Using a 1997 Test Year

- The proposed rate will be in effect in 1997: it is logical to use 1997 costs
- The proposed rate calculation should be consistent with other Metro planning information
- We used the actual debt and equity data generated by A. C. Trucking's financial statements
- Instead of using an assumed interest figure we used actual interest
- We generated a Return of Equity from a market basket of firms with similar SIC codes -- 15.25% -- using standard industry methods

Staff Criticisms

- Staff has been using rules and regulations for Washington, not Oregon
- Staff has assumed many critical parameters
- Staff has (perhaps, understandably) analyzed the wrong year -- 1995
- Staff has not completely followed the logic and computations of EO-25