

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)	RESOLUTION NO. 16-4706
OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM)	
LICENSE TO EATON PORTLAND POWER CENTER FOR)	Introduced by Chief Operating
TRANSPORT AND DISPOSAL OF NON-RECOVERABLE SOLID)	Officer Martha Bennett in
WASTE, INCLUDING PUTRESCIBLE WASTE AT THE)	concurrence of Council President
COVANTA WASTE-TO-ENERGY FACILITY LOCATED IN)	Tom Hughes
BROOKS, OREGON.		

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Eaton Corporation has filed a complete application seeking a non-system license to transport non-recoverable solid waste, including putrescible waste, to a non-system facility for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, Metro Code Chapter 5.05 provides that an applications for a non-system license to transport putrescible waste shall be reviewed by the Chief Operating Officer and is subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

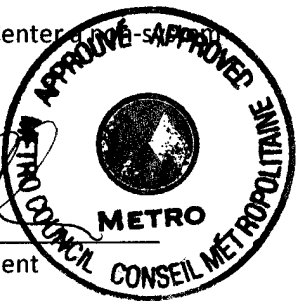
WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license application of Eaton Portland Power Center is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Eaton Portland Power Center a license substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 21st day of July, 2016.

Tom Hughes
 Tom Hughes, Council President



Approved as to Form:

Alison R. Kean

 Alison R. Kean, Metro Attorney



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-170-16

LICENSEE:
Eaton Portland Power Center 26850 SW Kinsman Rd. Wilsonville, OR 97070
CONTACT PERSON:
Troy Pollock Phone: (402) 609-4707 E-mail: troyapollock@eaton.com
MAILING ADDRESS:
Eaton Portland Power Center 26850 SW Kinsman Rd. Wilsonville, OR 97070

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services
Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Non- recoverable, non-putrescible waste commingled with putrescible waste generated at the Eaton Portland Power Center site located at 26850 SW Kinsman Rd. in <u>Wilsonville, Oregon</u>
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to transport to the non-system facility described in Section 3 up to 40 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee is authorized to transport the waste described above in Section 1 only to the following non-system facility:</p> <p style="padding-left: 40px;">Covanta Waste-to-Energy Facility 4850 Brooklake Road, NE Brooks, OR 97305</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality that this non-system facility is not authorized to accept such waste, Metro may immediately revoke this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on August 1, 2016 and expire at midnight on December 31, 2018, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee must report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of the solid waste on behalf of the Licensee.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee must keep and maintain accurate records of the amount of all solid waste that the Licensee transports to the non-system facility described in Section 3 of this license. These records include the information specified in <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>.</p> <p>(b) No later than the 15th day of each month, beginning with the first month following the commencement date of this license, Licensee must:</p> <ul style="list-style-type: none">i. Transmit to Metro in the electronic format prescribed by Metro the records required under Section 6(a) above;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that applied to the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee must make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. In addition, the Licensee must sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section.</p>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license is subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license is subject to amendment, modification, or revocation by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:</p> <ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which Metro issued this license;ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, Inc.; oriii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3.



	<p>(c) This license is, in addition to subsections (b)(i) through (b)(iii), above, subject to amendment, modification, or revocation pursuant to the Metro Code.</p> <p>(d) The Licensee may not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license will terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes the transport of putrescible waste to the facility listed in Section 3 of this license. Licensee is prohibited from transporting waste generated from within the Metro boundary to any non-system facility other than that specified in this license unless authorized by Metro in writing.</p> <p>(g) The COO may require the Licensee to redirect the waste covered by this non-system license to Metro Central Transfer Station or Metro South Transfer Station. Metro will provide the Licensee with at least 24 hours written notice of any redirection requirement. The notice will include the date and time that the redirection will take effect.</p> <p>(h) If the Licensee exceeds the calendar year limitation set forth in Section 2, each ton or portion thereof by which the Licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500.</p>
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8	COMPLIANCE WITH LAW
	<p>Licensee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's putrescible waste by federal, state, regional or local governments or agencies having jurisdiction over the waste generated by the Licensee will be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee must defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license. Expenses include, but are not limited to all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4706 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO EATON PORTLAND POWER CENTER FOR TRANSPORT AND DISPOSAL OF NON-RECOVERABLE SOLID WASTE, INCLUDING PUTRESCIBLE WASTE AT THE COVANTA WASTE-TO-ENERGY FACILITY LOCATED IN MARION COUNTY, OREGON

July 11, 2016

Prepared by: Juan Garcia
503-797-1862

Approval of Resolution No. 16-4706 will authorize the Chief Operating Officer (COO) to issue a new non-system license (NSL), to Eaton Portland Power Center (Eaton). The proposed NSL will authorize Eaton to transport up to 40 tons per calendar year of non-recoverable waste, including putrescible (wet) waste, generated at its facility within the Metro region to the Covanta Waste-to-Energy facility (Covanta) located in Marion County, OR.

BACKGROUND

Overview

The applicant, Eaton, a power management company that designs and manufactures customized electrical power equipment with more than 25 locations in the United States. Eaton specializes in custom product configurations such as motor control centers, low/medium voltage assemblies, medium voltage control, and medium voltage systems. The company routinely generates miscellaneous non-recoverable waste at its facility such as office, restroom, and lunchroom wastes.

Eaton's parent corporation encourages its manufacturing sites to achieve zero waste-to-landfill as part of its waste management program and also as a means to reduce the release of greenhouse gases associated with landfills. In 2015, Eaton sites collectively reduced their landfilled wastes by over 23 percent as part of its zero waste-to-landfill program. The company seeks the proposed NSL to further its internal initiative to reduce landfill disposal.

On April 12, 2016, Eaton filed a complete application seeking a new NSL to transport up to 40 tons per calendar year of non-recoverable waste, including wet waste, generated at its facility to Covanta. The proposed license is subject to approval or denial by the Metro Council because, in addition to non-putrescible waste, it also authorizes the delivery of wet waste to a non-system facility.¹

ANALYSIS/INFORMATION

A. Known Opposition

There is no known opposition to the proposed new NSL.

B. Legal Antecedents

¹ Metro Code Section 5.05.044(2)(A)

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Metro Code Section 5.05.043 provides that, when determining whether or not to approve an NSL application, the Metro Council must consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Covanta facility primarily accepts solid waste generated in Marion County. The facility also accepts special waste and other wastes generated by companies seeking to promote alternative disposal policies or government agencies seeking to destroy certain waste for public safety or the public good such as contraband, postage stamps, expired pharmaceuticals, and lottery tickets. The proposed disposal site is a waste-to-energy facility rather than a landfill and thus does not pose the same potential environmental risk from waste delivered from prior users. Air emissions from the facility are controlled through the use of high efficiency combustion within the furnace/boiler as well as by selective non-catalytic reduction, spray dryer absorbers, fabric filter baghouses and an activated carbon injection system. The ash generated at the facility is then disposed in accordance with Oregon Department of Environmental Quality (DEQ) requirements.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

Covanta is permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and Marion County that Covanta is in compliance with federal, state, and local requirements. No formal enforcement actions have been taken at Covanta by DEQ in the last five years. Staff has also received confirmation that Covanta has a good compliance record with respect to public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

Covanta screens incoming waste for hazardous, radioactive, and other unacceptable materials and has a state-of-the-art emissions control system to minimize the risk of future environmental contamination. In addition, Covanta uses operational practices and management controls that are considered by the DEQ to be appropriate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

Eaton maintains an extensive internal recycling program and seeks to deliver only its non-recoverable waste, including wet waste, to a waste-to-energy facility instead of a landfill.

The Metro-area waste that is delivered to Covanta is considered to be disposal and does not count toward recovery in Metro's recovery rate calculation because state statute² stipulates that only those wastesheds that burn mixed solid waste for energy recovery within their wasteshed boundaries may count a portion of it towards their DEQ recovery rate calculation. Marion County is the only wasteshed within Oregon that hosts a waste-to-energy facility within its boundaries; therefore, it is the only wasteshed that is currently allowed to include a portion of the in-county waste that is delivered to Covanta in its recovery rate. Approval of the proposed NSL is not expected to impact the Metro region's recycling and waste reduction efforts.

(5) The consistency of issuing the license with Metro's existing contractual arrangements;

Metro has a contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. The waste subject to this proposed license will not be disposed at a general-purpose landfill. Thus, approval of the proposed license will not conflict with Metro's disposal contract.

(6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;

The applicant has a good record of compliance with regard to Metro regulations.

(7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

Covanta is the primary disposal site for solid waste generated within Marion County. At certain times during the year, in order to operate more efficiently, the facility requires more solid waste than is generated within the County. During these times, Marion County supports the Metro-authorized flow of solid waste to Covanta.

The proposed license includes a 28-month term, commencing on August 1, 2016, and expiring on December 31, 2018. Although NSLs are typically issued for a two-year period, staff recommends that the Metro Council establish a 28-month term in this instance in order to align the license with a calendar year renewal cycle. The Metro Code stipulates that new NSLs may be issued for up to a three-year period.³

C. Anticipated Effects

² ORS 465A.010(4)(f)(B)

³ Metro Code Section 5.05.045(5)(B)

The effect of Resolution No. 16-4706 will be to issue a new NSL authorizing Eaton to transport up to 40 tons per calendar year of non-recoverable waste, including wet waste to Covanta for disposal. The proposed license will commence on August 1, 2016, and expire on December 31, 2018.

D. Budget/Rate Impacts

The waste covered under the proposed NSL will be delivered to Covanta. Covanta is not a general-purpose landfill and the proposed tonnage will not impact Metro's obligations under its disposal contract. The small amount of tonnage that Eaton seeks to deliver to Covanta under this proposed NSL will most likely be diverted away from Willamette Resources, Inc. and will not impact the cost of disposal for Metro's customers. Furthermore, the regional system fee and excise tax will continue to be collected on the waste covered by this license since Covanta is considered a disposal site.

RECOMMENDED ACTION

The COO finds that the proposed license satisfies the requirements of Metro Code Chapter 5.05 and recommends that the Metro Council adopt Resolution No. 16-4706. Approval of this resolution will authorize the COO to issue an NSL to Eaton as attached to the resolution as Exhibit A.