

METROPOLITAN EXPOSITION-RECREATION COMMISSION

RESOLUTION NO. 95-6

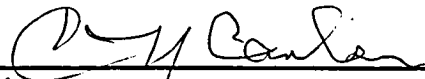
Approving Rental Policy for the Portland Center for the Performing Arts.

The Metropolitan Exposition-Recreation Commission finds:


1. That the Commission adopted a three-tier rental policy for PCPA facilities on June 10, 1992, and adopted housekeeping language changes to the policy on May 12, 1993.
2. That the PCPA Business Plan (adopted March 30, 1994) identified a financial crisis for the facilities and mandated a complete analysis of rental rates and rent structure in comparison to like facilities, with consideration of appropriate criteria for and limits to resident company status.
3. That consideration should be given to the rate of charge and allowance for use of load-in and dark days for each production, and to other policies and practices which have an adverse impact on the revenue generated from the respective performance halls.
4. That research and analysis have been completed for development of policy alternatives which have been subject to public review through mailings and in workshops, PCPA Advisory Committee meetings, and individual discussions; this extensive development and review process has generated a number of refinements that have been incorporated into the Four-Tier rental policy for PCPA facilities.

BE IT THEREFORE RESOLVED that the Metropolitan Exposition-Recreation Commission approves the Policy for Rental Rates at the Portland Center for the Performing Arts as attached, to be effective July 1, 1995.

Passed by the Commission on February 8, 1995.




Chairman



Secretary/Treasurer

Approved As to Form:
Daniel B. Cooper, General Counsel

By: 

Mark B. Williams
Senior Assistant Counsel

MERC STAFF REPORT

Agenda Item/Issue: Rental Policy for PCPA

Resolution No. 95-6

Date: February 8, 1995 **Presented By:** Harriet Sherburne

Background and Analysis: The Business Plan for PCPA mandated a thorough examination of the three-tier rental policy and rates adopted by the Commission in June, 1992 (and retroactive to the 91-92 season). Research revealed that PCPA had recognized significantly more resident companies than comparable facilities; an administrative freeze was put in place, while evaluation proceeded. The Business Plan also identified rental practices which contributed to the decline in PCPA revenues under the 3-tier rental policy; alternatives for corrective action were evaluated.

After extensive consideration of alternatives, it was determined that a four-tier rental structure would be more appropriate to the array of users in the PCPA performance halls. Because of the financial crisis identified in the Business Plan, it was determined that the total number of users receiving the benefits of discounted rents should not be increased above the existing level (14 organizations). Further details of the rental policy are covered in the accompanying "Proposal Summary".

Fiscal Impact: This Policy for Rental Rates in combination with the recommended rate schedule for 1995-96 is projected to generate approximately \$100,000 in additional revenue for PCPA. The actual impact will depend upon the number and quality of events booked for each fiscal year in the four performance halls of PCPA facilities.

Discussion with Commission Liaison and/or Users: Over the course of more than 6 months' work, there has been extensive interchange with commercial and non-profit users, PCPA Advisory Committee, elected officials, and professionals in the field. The Liaison Committee has been directly involved in public workshops and Advisory Committee discussions on rental policies and rates.

Recommendation: Staff recommends that the MERC Commission approve and adopt the Policy for Rental Rates at PCPA.

FEBRUARY 1995

PCPA USER CATEGORIES

Proposal Summary

In the context of the adopted PCPA Business Plan, there has been a thorough examination of the "Policy for Rental Rates at the Portland Center for the Performing Arts", as approved in June 1992, along with analysis of the current cost of operation of the four performance spaces. Following several group discussions of the fundamental purpose of the Resident Company designation, there were some general conclusions which have been recorded in the memorandum "Revisions to Resident Company Policy" dated September 22, 1994. The memo has been reviewed with a broad array of non-profit users of PCPA facilities. Along with several changes proposed in that memorandum, the following actions are recommended.

Since enactment of the policy in 1992, Non-Profit users of the facilities have been listed in 2 categories: Standard-Not-For-Profit and Resident Companies. Beginning July 1, 1995, there would be 3 categories of non-profit users: Principal Tenant, Featured Tenant and Recognized Tenant.

PRINCIPAL TENANT: This category is proposed to include major users who have a substantial history and performance season in a specific hall, and draw major audience attendance to the facility. The category includes Commercial as well as Non-Profit Users. In order to qualify for non-profit benefits in this category, the organization would have to meet criteria previously set for non-profit Resident Companies: tax-exempt non-profit status, long-standing relationship with facilities, local production of performing arts, subscription season AT A DESIGNATED HALL OF PCPA CONSISTING OF A MINIMUM OF 3 EVENTS AND 20 PERFORMANCES. Such non-profit users would make application for a 3-year term, and provide annual reporting on their contributions to the public purposes of the PCPA facilities. The non-profit organizations which appear appropriate for this category.

Civic Auditorium

- Portland Opera
- Oregon Ballet Theatre
- Oregon Children's Theatre

ASCH

- Oregon Symphony
- Portland Youth Philharmonic

Intermediate

- Portland Center Stage
- Music Theatre Company

Winnie

- Tygres Heart
- Tears of Joy

The PRINCIPAL TENANTS would have first priority in scheduling for the respective performance space, and the non-profits would be eligible for the lowest rent tier on the approved schedule of rates. Commercial Tenants in this category (Dan Bean Series, Opera/Juamcyn Series) would have scheduling priority but would be charged the Commercial rent tier. The Scheduling Policies and Procedures for Civic Auditorium adopted August, 1994 would apply to users in this category.

FEATURED TENANT: This category is proposed to include non-profit users who schedule fewer events than those in the PRINCIPAL TENANT category, and which may PRODUCE OR PRESENT performing arts and may have subscription series in PCPA facilities. Such users would have scheduling priority following the PRINCIPAL TENANTS, and be charged rates in the rate Tier 3, which is 50% off the Commercial Rates. Note that the MERC Commission has asked the Singing Christmas Tree, OBT "Nutcracker" and OCTC to work on joint scheduling of the November/December/January period through 1996-97; such scheduling priority and acknowledgement of requirements for Seasonal dates would be compatible with the requirements of this category. Users in this category could enter into multi-year (maximum 3 years) agreements, with MERC approval. The organizations which appear appropriate for this category are as follows:

<u>Civic Auditorium</u>	<u>ASCH</u>	<u>Intermediate</u>	<u>Winnie</u>
● Singing Christmas Tree	● Portland Arts & Lectures	● Kalakendra	None
● Live from Civic	● ISEPP		

RECOGNIZED TENANT: This category would be open to any organization with the proper documentation to establish that they are tax exempt and non-profit, as was required for the former category Standard Not-For-Profit users. Most of the more than 50 organizations now on that list have only one event and a limited number of performances per year. RECOGNIZED TENANTS would be charged rents in the rate Tier 2, which is 15% off the commercial tier. Efforts would be made to schedule traditional dates for these events (e.g. graduations) however the priorities of the other user categories would stand ahead of this group of users.

The preferences in scheduling and rates for non-profit users are summarized as follows:

<u>User Category</u>	<u>Scheduling Preference</u>	<u>Rent Rate</u>
Principal Tenants	Yes - 1st	Tier 4 (non-profit only)
Featured Tenants	Yes - 2nd	Tier 3
Recognized Tenants	Some - 3rd	Tier 2

AT THE
PORTLAND CENTER FOR THE PERFORMING ARTS

GENERAL PROVISIONS

This policy applies only to the events at Portland Center for the Performing Arts (PCPA). In consideration of the mission of the PCPA and its diverse array of users, there shall be a four tier rental rate structure for use of the facilities. The rental rates for each of the PCPA performance halls shall be approved and adjusted by the MERC Commission.

- Tier 1 Commercial Rate - For Profit
- Tier 2 Non-Profit Rate - Recognized Tenant
- Tier 3 Non-Profit Rate - Featured Tenant
- Tier 4 Non-Profit Rate - Principal Tenant

Tier 1 Commercial Rate shall apply to all events and users, unless the user has filed a written application and has been approved for the appropriate Non-Profit Rate category as Featured, Recognized, or Principal Tenant. The four-tier rent structure approved by the Commission shall prevail unless the Director determines that a different rate in a particular instance is necessary due to a compelling business reason or to gain a significant community benefit.

Written applications for rates other than Tier 1 must be filed at least seventy-five (75) days prior to the event or Season. Written applications for Tier 4 Principal Tenant status rates will be accepted only after notice by the PCPA Director that capacity for such tenants exists in one or more of the PCPA's performance halls; the notice of opportunity will specify the application deadline and format.

The Director of the PCPA shall have the authority to approve or disapprove applications for PCPA status as Featured Tenant, Recognized Tenant and Principal Tenant based on the standards set out in this Policy. The number of organizations in Tier 3 Featured Tenant and Tier 4 Principal Tenant categories shall not exceed the total of 14 without prior approval of the MERC Commission. The Director may request from any organization seeking these reduced rates any information, including but not limited to access to accounting records and promotion agreements, which is deemed necessary or desirable in order to determine whether these rates should apply. Failure by an organization to comply with a request for information in a timely manner, or the submission of false information, shall result in automatic rejection of the application for reduced rates.

The Director, with written notice to the applicant, may require re-application and re-evaluation of an application for reduced rates whenever it appears that the nature of the sponsoring organization has changed or that representations made in the application were untrue or are no longer true.

In the event that the Director disapproves an application the Director's decision shall become final, unless within fourteen (14) calendar days, the organization submitting the application appeals the Director's decision to the General Manager of the Metro Exposition-Recreation Commission (Commission) in writing. The General Manager's decision shall be final and binding, unless within fourteen (14) calendar days, the organization submitting the application appeals the General Manager's decision to the Commission in writing. The Commission's decision shall be final and binding.

The Director may propose that the Commission approve one or more multi-year agreements with long-term, non-profit tenants that qualify for Tier 3 Featured Tenant or Tier 4 Principal Tenant Rates; such agreements may be for a maximum of three (3) years and may address scheduling priority, rental rates, and other matters. Approval of such agreements will be based on the schedule availability of the respective hall, the financial capacity of PCPA and the resulting community benefit to be received.

Whenever a question arises as to the meaning or interpretation of this policy or any other policy or practice of the Commission, the interpretation given by the Commission and/or its designee(s) shall be final and binding.

TIER 2 NON-PROFIT RATE - RECOGNIZED TENANT

In order to qualify for the Tier 2 non-profit rent rates, the following conditions shall be met:

- A. The sponsoring organization must be currently recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code and related sections, as now or hereafter amended, and recognized as non-profit by the State of Oregon. It must be a locally based non-profit organization with a local Board of Trustees or Board of Directors, or qualify for funding from the Metropolitan Arts Commission. "Local" includes any area within the boundaries of the Clackamas, Multnomah, Washington Counties, in Oregon, or Clark County, Washington. As part of the Application, the organization will be required to provide accurate copies of its Bylaws, Articles of Incorporation, State Certificate of Incorporation and recognition as non-profit, a current list of Trustees or Directors, with city/town or residence for each, and IRS determination letter. Sponsoring organizations which are subdivisions of local governments may also be eligible for Non-Profit rates.
- B. Events to be covered by this rate must be booked a minimum of forty-five (45) days in advance, unless otherwise approved by the Director.
- C. The organization must be current on any payments to any Metro ERC facilities, including the PCPA or its subcontractors.
- D. The organization must be in compliance with all pertinent laws or rules regarding charitable organizations and charitable solicitations, if applicable.
- E. At the time of application, the organization must provide proof that all income from the event will be for the sole economic benefit of the organization, including proof that any expenses incurred in presenting the event are reasonable and consistent with charitable fund-raising events.

Tenants approved for Standard Non-Profit status prior to July 1, 1995 shall be granted Recognized Tenant status if they meet the qualifications listed in this policy.

TIER 3 NON-PROFIT RATE - FEATURED TENANT

In order to qualify for the Tier 3 non-profit rent rates, the following conditions shall be met:

- A. The sponsoring organization must be currently recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code and related sections, as now or hereafter amended, and recognized as non-profit by the State of Oregon. It must be a locally based non-profit organization with a local Board of Trustees or Board of Directors, or qualify for funding from the Metropolitan Arts Commission. "Local" includes any area within the boundaries of the Clackamas, Multnomah, Washington Counties, in Oregon, or Clark County, Washington. As part of the Application, the organization will be required to provide accurate copies of its Bylaws, Articles of Incorporation, State Certificate of Incorporation and recognition as non-profit, a current list of Trustees or Directors, with city/town or residence for each, and IRS determination letter.
- B. The organization must have been in continuous operation for three years prior to date of application.
- C. Local production or presentation of performing arts events open to the public must be the primary activity of the organization.
- D. The organization must have a subscription season at PCPA and/or book a minimum of six (6) events or performances with an average attendance per season of 60% of the respective hall.
- E. The organization must be current on any payments to any MERC facilities, including the PCPA and its subcontractors.

Once approved, Featured Tenant status shall be in effect for a period of three (3) years from the date of approval. After that time has expired, a renewal application must be filed. For three years beginning July 1, 1995, the following organizations are recognized for Featured Tenant Status:

- One Voice Productions
- Portland Arts & Lectures
- Live from the Civic
- ISEPP
- Kalakendra

TIER 4 PRINCIPAL TENANT RATE

It is intended that four halls of the PCPA facilities serve as the primary performance spaces for a group of local performing arts organizations comprised of artists, production personnel, and their management staff, who produce and develop their art form and contribute to the following objectives:

1. The PCPA will have a regular, predictable program of events available to the public, with an array of performance arts including music, dance and theatre.
2. Through qualification for benefits of the Tier 4 Principal Tenant rate, the financial stability of local non-profit performing arts organizations will be enhanced.
3. Through the efforts of Principal Tenants to meet the terms of qualification, low ticket prices will be available and low or no cost events will be continued.
4. Educational efforts and children's performances will be increased.
5. Performance offerings to reach the broadest possible audience will be expanded.

The number of companies approved for Principal Tenant status may vary from time to time and will depend on the capacity of PCPA to accommodate event dates, as well as PCPA financial capability to subsidize additional performances. The PCPA Director shall make such determinations regarding capacity and financial capability. Upon a determination that capacity and financial capability exists, notice will be given and applications for Principal Tenant status received. In the event that there is competition for such status, the Director will make a selection based on the criteria in this policy and the ability of the organization to meet the above purpose and objectives.

In order to qualify for the Tier 4 rates, the following conditions must be met:

- A. The sponsoring organization must be currently recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code and related sections, as now or hereafter amended. It must be a locally based non-profit organization with a local Board of Trustees or Board of Directors, or qualify for funding from the Metropolitan Arts Commission. "Local" includes any area within the boundaries of Clackamas, Multnomah, Washington Counties, the in Oregon, or Clark County, Washington. At the time of application, the organization must provide accurate copies of its Bylaws, Articles of Incorporation, State Certificate of Incorporation and recognition as non-profit, a current list of Trustees or Directors, with city/town or residence for each, and IRS determination letter. Alternatively, sponsoring organizations which are subdivisions of local governments may also be eligible for Principal Tenant rates.
- B. Organization must have been in continuous operation for three years prior to date of application.
- C. Local production of performing arts events open to the public must be the primary activity of the organization.
- D. Organization must have a subscription season at PCPA and book a minimum of three (3) events and twenty (20) performances with an average attendance per season of 60% of the respective performance hall.
- E. Organization must be current on any payments to any Metro ERC facilities, including the PCPA and its subcontractors.

Once Principal Tenant status is approved, the following benefits will be conferred by PCPA;

- A. Tier 4 rental rates shall apply for local productions. However, presentation of events other than the company's regular art form or one that involves a non-local production shall not be eligible for Principal Tenant rates. The Director shall make the determination of rates applicable to non-standard events.
- B. Favorable consideration for booking events of the organization, in accordance with scheduling policies adopted for each hall. Scheduling policy shall address priority on date selection among Principal Tenants, Featured Tenants, commercial presenters and other long-term users of PCPA facilities.
- C. Opportunity for the organizations to enter into multi-year agreements addressing scheduling, applicable hall capacity, ticketing practices applicable to specific events, and related matters.

Principal Tenant status requires the following:

- A. The organization must provide some programs, performances or events at PCPA facilities which are offered at low-cost or no-cost to the public and/or provide some low-cost tickets to standard performance events. Low-cost tickets are those under \$10.00; no less than 2% of all tickets for the Season should be low-cost, achieved either on a cumulative basis or by presenting specific low-cost events.
- B. The organization must formally recognize the PCPA in marketing, promotional material and event program, and list the name of the PCPA, its staff, and the names of the Metro Exposition-Recreation Commission members in a prescribed manner in the event program, if such a program is distributed to audience members.
- C. The organization must provide educational activities which may include special student performances, arts education programs or special tickets for students.
- D. Submission of an annual report which describes how the company has contributed to the objectives of this policy as stated above. The annual report must specify the number of low-cost tickets that were provided, to what groups or target audiences, and the price of such low-cost tickets. The report must list the low-cost or no-cost events provided to the general public.

Once approved, Principal Tenant Status shall be in effect for a period of three years from the date of approval. After that time has expired, a renewal application must be filed. For the three years beginning July 1, 1995, the following organizations are recognized for Principal Tenant status:

- Oregon Symphony Orchestra
- Portland Opera Association
- Oregon Children's Theatre Company
- Tygres Heart Shakespeare Company
- Musical Theatre Company
- Portland Youth Philharmonic
- Oregon Ballet Theatre
- Portland Center Stage
- Tears of Joy