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4 **BEFORE THE BOARD OF COMMISSIONERS FOR**
5 **POLK COUNTY, OREGON**
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8 In the matter of Solid Waste Collection)
9 Rate Increase by Brandt’s Sanitary Service Inc.)
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11 **ORDER NO. 24-04**
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15 **WHEREAS**, the above matter came before the Polk County Board of Commissioners as a
16 decision from the Polk County Hearings Officer for approval of a solid waste collection rate increase
17 for Brandt’s Sanitary Service Inc; and
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19 **WHEREAS**, Polk County Code Chapter 70 regulates the criteria and procedures for a rate
20 increase request; and
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22 **WHEREAS**, the Polk County Hearings Officer conducted a public hearing on this matter on
23 April 19, 2024; and
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25 **WHEREAS**, the Polk County Hearings Officer considered the information provided by the
26 applicant and staff report and recommendation provided by the Solid Waste Administrator; and
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28 **WHEREAS**, the Polk County Hearings Officer found that the rate increase will be just, fair,
29 reasonable, and sufficient to provide service to the public; now, therefore:
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31 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDERS AS FOLLOWS:**
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33 Sec.1 The application for a solid waste collection rate increase for Brandt’s Sanitary Service Inc.
34 is **ratified**.
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36 Sec.2 The findings labeled as **EXHIBIT A** and conclusions and rate schedule as determined by
37 the Hearings Officer are hereby adopted.
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39 Sec.3 The effective date of June 5 2024, as determined by the Hearings Officer is **ratified**.
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41 Dated this 1st day of May, 2024, at Dallas, Oregon.
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POLK COUNTY BOARD OF COMMISSIONERS



Craig Pope, Chair



Lyle Mordhorst, Commissioner



Jeremy Gordon, Commissioner

Approved as to Form



Morgan Smith
County Counsel

**BEFORE THE COMMUNITY DEVELOPMENT DEPARTMENT
FOR POLK COUNTY, OREGON**

In the Matter of the Application of:

**BRANDT'S SANITARY SERVICE
INC.**

**ORDER RE: APPLICATION FOR
ANNUAL RATE INCREASE
(PCCO CH. 70)**

I. SUMMARY OF PROCEEDINGS

Brandt's Sanitary Service Inc. ("Brandt's"), a Polk County Solid Waste Collection Franchisee has requested a rate increase for solid waste collection services pursuant to Polk County Code of Ordinances (PCCO) 70.0801. Brandt's serves approximately 670 customers in unincorporated Polk County. Residential customers account for approximately 92% of operations by service and commercial customers account for 8% of operations. The last rate increase by Brandt's was on April 1, 2019, when the collection rate increase of 14.6% was approved.

Brandt's applied for the current annual rate adjustment on March 7, 2024. Brandt's proposed calculated rate adjustment is a flat rate increase of 4.2% to all collection services.

Polk County Code of Ordinances (PCCO) Chapter 70.0801 allows a Solid Waste Collection Franchisee to apply for an annual rate increase. The Polk County Board of Commissioners designated Hearings Officer may approve and establish rates filed by applicants for franchises if it finds that such rates are not demonstratively unreasonable and are not substantially higher than those charged generally in the County under similar service requirements and for the same or similar quality of service, or it may establish a different rate schedule. The Hearings Officer may also increase or decrease rates based on the cost of doing business.

II. PUBLIC HEARING

A duly advertised public hearing was held in the Polk County Courthouse on April 19, 2024. Brandt's was represented by its employee, Josh Brandt and its Solid Waste Management Consultant, Estle Harlan. The Hearings Officer announced that she had no interest (financial or personal) in the matter nor any *ex parte* contact with any involved party. Polk County Staff summarized its report. Ms. Harlan agreed with the Staff Report's recommendation and provided additional information about Brandt's business. There was no one in attendance who wished to speak for or against the application. There was no request for a continuance, or for the Record to be left open for submission of further evidence. There being no further business, the Hearings Officer declared the Record closed and adjourned the meeting. Leslie Howell, Polk County Hearings Officer, presided. She has authority to make a recommendation to the Board of Commissioners on this matter.

III. APPLICABLE LAW

In determining rates, the Administrator and the Hearings Officer shall make a finding that the rates will be just, fair, reasonable, and sufficient to provide proper service to the public. The Administrator and the Hearing Officer may consider rates charged by other persons performing the same or similar service in the same or other areas. The Administrator and the Hearings Officer shall give due consideration to:

- (a) The investment in facilities and equipment.**

- (b) The services of management.**
- (c) Local wage scales.**
- (d) The concentration of customers in the area served.**
- (e) Methods of storage, collection, transportation and disposal, salvage, recycling, or reuse.**
- (f) A reasonable return to the franchisee.**
- (g) The length of haul to disposal facilities.**
- (h) The cost of disposal.**
- (i) The use of transfer stations or transfer systems and the added costs.**
- (j) The cost of alternate methods of disposal.**
- (k) The future service demands of the service area or disposal site which must be anticipated in equipment, facilities, personnel, or land.**
- (l) Extra charges for special pickups or pickups on days where service is not normally provided on a collection route.**
- (m) Extra charges where the type or character of waste or solid waste, including but not limited to wastes with peculiarly offensive odors, requires special handling or service.**
- (n) Extra charges for providing janitorial services on the premises where service is provided.**
- (o) In addition, with respect to disposal sites, the type of site, whether the site is open to the public, and hours, type of waste disposed of, and method of disposal.**
- (p) Cost of compliance with laws, ordinances or regulations and rules of public agencies or bodies having jurisdiction.**
- (q) Other factors that may, in the opinion of the Administrator and the Board, necessarily affect the rates to be charged.**

IV. FINDINGS

Polk County has previously considered the rate determination factors listed above in establishing the collection rates for this franchise area. Brandt's is proposing a 4.2% rate increase adjustment across all currently offered services.¹ Brandt's is proposing to expand their miscellaneous service fees to include larger carts in addition to their 35-gallon cart. Brandt's is also proposing to add a sharps disposal service to the services currently being offered. Brandt's has not identified future service demands that would justify a rate increase. Brandt's has not identified any changes to laws, ordinances or regulations that have increased the cost of compliance. Brandt's has identified inflationary increase in fuel, labor, and disposal cost as well as the general cost of doing business as justification for the proposed rate increase. Brandt's is also requesting a reasonable return to the franchisee.

Annual average inflation based on the Urban Consumer Price Index (CPI-U) for West Size Class B/C increased 3.2 % between 2023 and 2024. Brandt's net income before tax as percent of sales for the unincorporated Polk County portion of their earnings decreased from 12% in the 2021/2022 fiscal year to 5.7% during the 2022/2023 fiscal year. 2022/2023 fiscal year actual results indicate that the largest operational expenses were repairs and maintenance and disposal fees. From the

¹ Brandt's currently offered cart service for Rural, Rural (Pocket Areas) and Distant Rural customers does not include curbside recycling. Brandt's rate request application did not include a request to add this new service nor was it analyzed by the Hearings Officer. References to "recycling" as a current service included with cart service for Rural, Rural (Pocket Areas), and Distant Rural were erroneously included and were not considered as part of this Solid Waste Rate Request Adjustment.

2021/2022 fiscal year to the 2022/2023 fiscal year, the total direct costs of operations increased by 8.7%, cost of repairs and maintenance increased by 83% and disposal costs increased by 17.2%. Brandt's 2024/2025 ProForma projects that the total direct cost of operations will increase by 3.8% from the 2023/2024 fiscal year. The 2024/2025 fiscal year repair and maintenance costs are projected to increase by 2% and disposal fees are projected to increase by 10%. 2023/2024 fiscal year net income as percent of sales is projected to be 3.8% which is down from 5.7 % earned in the 2022/2023 fiscal year. Brandt's projects that with the rate increase, the 2024/2025 fiscal year net income as percent of sales before tax will increase to 4.2% which is up from the 3.8% projected to be earned in the 2023/2024 fiscal year. Without the rate increase, the 2024/2025 fiscal year net income as a percent of sales before tax is projected to be 0.13%.

In summary, the direct costs of total operations are projected to increase by 3.8% for the 2024/2025 fiscal year from 2.1% in the 2023/2024 fiscal year. Staff finds, and the Hearings Officer concurs that a projected 4.2% return as percent of sales is reasonable to the franchisee and lower than the returns for other Polk County Franchisees. The cost of disposal, wages, and management services are all factors that the Hearings Officer considers when making a rate increase determination. The Hearings Officer finds that Brandt's has demonstrated that the cost of doing business has increased.

The Hearings Officer and the Board may compare rates charged by others performing the same or similar service in the same or other areas. Attached to the Staff Report are rate comparison charts compiled by Polk County Staff in order to review other solid waste collection rates both inside and surrounding Polk County. The surrounding counties included in this comparison are Benton, Lincoln, Marion, Tillamook, Yamhill and Washington.

A review of Brandt's proposed rural rate structure finds that some of their container rates are lower than the average of the franchisees in Polk County and lower than the surrounding counties rural solid waste collection rates. In particular, the average rural rates within Polk County but outside the Brandt's franchise area are \$21.60 for a 32/35-gallon cart and \$33.85 for a 90/95-gallon cart. Brandt's is proposing \$21.30 for a 32/35-gallon cart and \$41.00 for the 90/95-gallon cart. Brandt's proposed 32/35-gallon cart rate is 1.4 % lower than the average Polk County franchise rate and Brandt's 90/95-gallon carts rate are 17.4% higher than the average Polk County Franchise rates. The average rates in surrounding counties are \$30.33 for a 32/35-gallon cart and \$48.69 for a 90/95-gallon cart. Brandt's proposed rates for the 32/35-gallon and 90/95-gallon carts are 42.38% and 15.79% lower than the surrounding counties. Brandt's proposed rural rate for a 2-yard drop box container is on average 5.63% lower than other Polk County franchises and 20.28% lower than surrounding counties. The Hearings Officer finds the proposed rural rates are just, fair, and reasonable compared to other Polk County franchises in the local area.

A review of Brandt's proposed urban rate structure finds that their container rates are higher than the average of the franchisees in Polk County and lower than the surrounding counties urban solid waste collection rates. In particular, the average urban rates within Polk County but outside Brandt's franchise area are \$21.28 for a 32/35-gallon cart and \$32.06 for a 90/95-gallon cart. Brandt's is proposing \$21.75 for a 32/35-gallon cart and \$40.95 for the 90/95-gallon cart. Brandt's proposed rates for the 32/35-gallon and 90/95-gallon carts are 2.16% and 21.70% higher than the average Polk County Franchise rates. The average rates in surrounding counties are \$29.30 for a 32/35-gallon cart and \$47.18 for a 90/95-gallon cart. Brandt's proposed rates for the 32/35-gallon and 90/95-gallon carts are 34.70% and 15.22 % less than the surrounding counties. Brandt's proposed urban rate for a 2-yard drop box container is on average 5.03% higher than other Polk County franchises and 13.15% lower than surrounding counties. The Hearings Officer finds the proposed urban rates are just, fair, and reasonable compared to other Polk County franchises in the local area.

A review of Brandt's proposed expansions of miscellaneous fees to include larger carts in addition to the standard 35-gallon cart reveals addition charges such as: extra dump fees, overfill fees, on

call fees, up-to-the house fees, off-street premium service distance fees, as well as exchange, delivery, and redelivery fees. In particular the Brandt's overfill fee for their 35-gallon cart is \$5.75, with the rate adjustment, the fee would increase to \$6.00, with corresponding fees of \$9.00 for a 65-gallon cart and \$12.00 for a 95-gallon cart. Brandt's on-call fee for their 35-gallon cart is \$9.40, with the rate adjustment, the fee would increase to \$10.00, with corresponding fees of \$15.00 for a 65-gallon cart and \$20.00 for a 95-gallon cart. The pricing structure for these fees are justified due to labor, staff time, fuel cost, and higher disposal costs due to additional weight of larger carts. The pricing structure for these services are based on the cost of service.

A review of Brandt's proposed sharps disposal service rates are lower than the average of franchisees in Polk County. In particular, the average rural rates within Polk County outside Brandt's Franchise area are \$36.59 for sharps container/disposal services. Brandt's is proposing \$15.00 for a new service and \$15.00 for the disposal. Brandt's proposed rates for sharps are 21.98% less than the average Polk County Franchise rates. The availability of sharps disposal options are diminishing in Polk County due to many pharmacies discontinuing acceptance. The proposed fee reflects the cost associated with labor, staff time, and the higher disposal fees incurred due to the classification of sharps as medical waste. The fee is determined based on cost of service and is an essential service to ensure the safe and proper disposal of sharps, addressing the need within Polk County.

V. CONCLUSIONS

Based on the analysis above, Staff and the Hearings Officer finds justification in approving a rate adjustment at this time as the cost of doing business has increased. Brandt's is requesting a 4.2% increase across all services which is higher than the 3.2% Bureau of Labor CPI-U statistic for inflation between 2023 and 2024. However, Brandt's last rate adjustment was in 2019, the CPI-U inflation rate between 2019 and 2024 is 23.71%.

Brandt's proposed container rates are lower in rural areas but higher in urban areas than what other Polk County franchises charge; but both are significantly lower than the average rates in surrounding counties. Brandt's 2-yard container rates are lower in rural areas but higher in urban areas than what other Polk County franchises charge; but both are lower than the average in surrounding counties respectfully. Brandt's projects that, without the proposed rate increase, the net income as a percent of sales before tax for the unincorporated Polk County portion of their business would be 0.13% for the 2024/2025 fiscal year; up from 3.38% 2023/2024 fiscal year. With the proposed rate adjustment increase, Brandt's projects a 4.2 % return.

Brandt's applied for the current annual rate adjustment on March 7, 2024. The application requested an effective date of July 1, 2024. At the public hearing, the Applicant requested an effective date of June 1, 2024. PCCO 70.0801(3) provides that an annual rate increase must be submitted 90 days prior to the effective date of the proposed rate change. Thus, the Hearings Officers finds an effective date of June 5, 2024, satisfies this requirement.

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VI. RECOMMENDATION

Based on the findings in this report, the Hearings Officer concludes that the proposed rate increase is just, fair, reasonable, and sufficient to provide proper service to the public and a reasonable rate of return for the franchisee.

The Hearings Officer recommends that the Board of Commissioners APPROVE the proposed rate adjustment effective 06/05/24.

This 26 day of April, 2024.

Leslie Howell

Leslie Howell
Dallas, Oregon
Polk County Hearings Officer

2024 SURROUNDING COUNTIES RURAL COMPARISON

Container Size	Brandt's Proposed Polk County	Benton County	Linn County	Marion County	Tillamook County	Yamhill County	Washington County	Average
32/35 GAL	\$21.30	\$35.11	\$25.31	\$31.89	\$32.28	\$27.98	\$29.39	\$30.33
65 GAL	\$32.05	\$43.68		\$39.84			\$43.08	\$42.20
90/95 GAL	\$41.00	\$53.74	\$38.53	\$48.53	\$53.88	\$46.63	\$50.83	\$48.69
2 YARD	\$171.85	\$182.58	\$205.86	\$160.88	\$266.92	\$299.29	\$177.83	\$215.56

2024 POLK COUNTY RURAL FRANCHISE RATE COMPARISON

FRANCHISE	<u>32 GAL/35 GAL</u>	<u>90/95 GAL</u>	<u>2 YARD</u>
Recology	\$22.97	\$38.26	\$224.56
Republic Service-Dallas	\$27.49	\$33.62	\$193.47
Republic-Polk Co.	\$19.05	\$34.62	\$169.80
Valley Recycling/Disposal	\$16.90	\$28.90	\$138.30
Polk Franchise Avg.	\$21.60	\$33.85	\$181.53
Brandt's Proposed Rates	\$21.30	\$41.00	\$171.85

Note: Polk County Avg is calculated outside of Brandt's service area

Note: Brandt's is using a 95-gal cart versus a 90-gal cart

2024 SURROUNDING COUNTIES URBAN RATE COMPARISON

Container Size	Brandt's Proposed Polk County	Benton County	Linn County	Marion County	Tillamook County	Yamhill County	Washington County	Average
32/35 GAL	\$21.75	\$35.11	\$32.31	\$30.37	\$22.05	\$26.53	\$29.42	\$29.30
65 GAL	\$32.15	\$43.68		\$40.39	\$44.10		\$41.80	\$42.49
90/95 GAL	\$40.95	\$53.74	\$38.53	\$47.45	\$50.10	\$44.22	\$49.05	\$47.18
2 YARD	\$171.85	\$182.58	\$205.86	\$145.90	\$179.40	\$284.01	\$168.91	\$194.44

2024 POLK COUNTY URBAN FRANCHISE RATE COMPARISON

FRANCHISE	<u>32 GAL/35 GAL</u>	<u>90/95 GAL</u>	<u>2 YARD</u>
Recology	N/A	N/A	N/A
Republic Service-Dallas	\$27.49	\$33.62	\$193.47
Republic-Polk Co.	\$19.05	\$34.62	\$169.80
Valley Recycling/Disposal	\$17.30	\$27.95	\$126.35
Polk Franchise Avg.	\$21.28	\$32.06	\$163.21
Brandt's Proposed Rates	\$21.75	\$40.95	\$171.85

Note: Polk County Avg is calculated outside of Brandt's service area

Note: Brandt's is using a 95 gal. cart versus a 90-gal cart