



County of El Dorado

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Legislation Details (With Text)

File #: 09-1288 **Version:** 1
Type: Agenda Item **Status:** Failed
File created: 10/6/2009 **In control:** Board Of Supervisors
On agenda: 10/27/2009 **Final action:** 10/27/2009

Title: Per the request of Waste Connections Inc., consider their request to conduct a public hearing for adoption of Resolution adjusting the solid waste collection rates for Waste Connections, Inc., dba Amador Disposal Service by 12.5% effective December 1, 2009. (Est. Time: 1/2 hr - 1 hr.)

FUNDING: There is no change in Net County Cost.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment A - ADS Rate Request Ltr 03.30.09, 2. Attachment B - EDC EMD Ltr to ADS 05.12.09, 3. Attachment C - ADS Ltr to EDC EMD 05.18.09, 4. Attachment D - EDC EMD Ltr to ADS 06.08.09, 5. Attachment E - ADS Letter 6.10.09, 6. Attachemt F - ADS Rate Req Ltr 09.21.09.PDF, 7. Attachment G - ADS Financial Audit 12.31.08, 8. Attachment H - ADS Public Notice for 10-27-09, 9. Amador Resolution 10.27.pdf, 10. Letter rcvd from J. Koehnke att'd 10-22-09, 11. Notice of Publication Card att'd 10-22-09

| Date | Ver. | Action By | Action | Result |
|------------|------|----------------------|--------|--------|
| 10/27/2009 | 1 | Board Of Supervisors | Denied | Pass |

Per the request of Waste Connections Inc., consider their request to conduct a public hearing for adoption of Resolution adjusting the solid waste collection rates for Waste Connections, Inc., dba Amador Disposal Service by 12.5% effective December 1, 2009. (Est. Time: 1/2 hr - 1 hr.)

FUNDING: There is no change in Net County Cost.

Background:

In accordance with the Franchise Agreement Between El Dorado County and Waste Connections of California Inc., d/b/a Amador Disposal Service Co, Section 19 - Compensation, the Board of Supervisors shall set the rates to be charged by Grantee at such times as the Board deems appropriate, but no less often than every two (2) years, unless a longer period is agreed on by the County and Grantee.

The history of Amador Disposal Service rate increases are as follows:

- Effective 7/1/2006 - 3.70% CPI
- Effective 10/1/2006 - 3.24% Fuel Surcharge
- Effective 1/1/2009 - 15.0% General Rate Increase

On March 30, 2009, the Environmental Management Department received a letter from Waste Connections of California Inc., d/b/a Amador Disposal Service formally requesting a collection rate

increase of 12.5% and an adjustment of the fuel surcharge from 3.22% to 2.70% (Attachment A). Further information was requested from the Grantee to justify the proposed rate adjustment (Attachment B). On May 18, 2009, the Environmental Management Department received a letter from Waste Connections of California Inc., d/b/a Amador Disposal Service regarding the additional information (Attachment C).

On June 8, 2009 Environmental Management sent a letter to Amador Disposal Service stating an audited annual financial statement had been requested due to the back to back large rate increase requests and changes and discrepancies in the financial information provided (Attachment D).

On June 10, 2009 Environmental Management received a letter from Waste Connections of California Inc. d/b/a Amador Disposal Service notifying the County of their intent to hire a third party CPA firm to conduct an independent audit of Amador Disposal's financial statements as it relates to the El Dorado County Franchise Agreement for 2008 with a completion date no later than August 31, 2009 (Attachment E).

On June 23, 2009 the Board of Supervisors held a public hearing to set rates for Amador Disposal Service. The motion of the Board of Supervisors was to "Adopt Resolution 142-2009 amended as follows:

- i) Maintain rates at current levels; and
- ii) Remove the fuel surcharge".

Reason for Recommendation:

On September 21, 2009 Environmental Management received a letter from Waste Connections, Inc., d/b/a Amador Disposal requesting a rehearing of the Amador Disposal's request for rate adjustment at the earliest opportunity. (Attachment F) Accompanying this request was an "Independent Auditor's Report and Financial Statement for the Year ended December 31, 2008" prepared by the Kemper CPA Group LLP (Attachment G).

As outlined in the "Independent Auditor's Report and Financial Statement for the Year ended December 31, 2008" Amador Disposal Service ended 2008 with an operating net loss of \$35,314. Amador Disposal Service has represented in the two year projection provided with their September 21, 2009 letter that a 12.5% rate increase would result in an estimated profit of \$15,502 in 2010 or approximately a 2% profit. Staff's initial review of the audited financial statement and the two year projection provided by Amador Disposal Service appear to be in accordance with rate setting procedures established in the franchise agreement.

Section 19B of the Franchise Agreement provides in pertinent part:

"The Board of Supervisors shall set the rates to be charged by Grantee at such times as the Board deems appropriate, but no less often than every two years, unless a longer period is agreed on by the Grantor and Grantee."

Section 19B then goes on to discuss the manner in which the rates are to be set. Under this provision, the Grantee is to submit "proposed collection rates and revenues and Operating Cost and Pass-Through Cost projections for the upcoming two year period, which projections shall have a reasonable factual basis."

In setting the rates, Section 19B requires that "[r]ates shall be set with the intent to reimburse

Grantee for its allowed Operating and Pass through Costs and Allowed Profit.”

Sections 19C and 19E set forth those costs excluded from Operating Costs and those which are Pass-Through Costs, respectively.

Section 19F determines the manner in which the Grantee's allowed profit is to be determined. It states in pertinent part, “[t]he Grantee shall be entitled to a profit on its operating costs established in the sole discretion of the Board of Supervisors.”

The Environmental Management has approved Waste Connections of California Inc. d/b/a Amador Disposal Service written notification to each ratepayer as described in Section 19 of the Solid Waste Franchise Agreement (Attachment H). The hearing to adopt the proposed collection rate adjustments has been duly noticed in accordance with Section 66016 of the California Government Code.

Items for Consideration:

Consider request for rehearing of Amador Disposal Rate Request: On June 23, 2009 the Board of Supervisors held a public hearing to set rates for Amador Disposal Service. The Board established the rates as set forth above. The Franchise Agreement does not provide for a rehearing of the rate setting. However, the Franchise Agreement does allow the Board to “set the rates to be charged by the Grantee at such time as the Board deems appropriate.”

In accordance with the Solid Waste Service Agreement, the Board has the following options regarding the request for rehearing:

- 1) Pursuant to Section 19B of the Franchise Agreement agree to hear the request for rate setting.
- 2) Deny Waste Connection Inc. d/b/a Amador Disposal Service request for a rate setting hearing.

General Rate Increase: Should the Board in its discretion choose to hear the rate request from Waste Connections Inc. d/b/a Amador Disposal Service, the Board has the following options related to the General Rate Increase:

- 1) Grant Waste Connections Inc. d/b/a Amador Disposal Service the general rate increase request of 12.5%. Please note the basic residential and commercial rates below. The all inclusive fee schedule is included in the attached resolution.

Residential

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|--------------|
| Current Rate |
|--------------|

Residential

| |
|--------------------------------|
| Rate w/ 12.5% General Increase |
|--------------------------------|

| | |
|------------|---------|
| 1 32g Can | \$15.74 |
| 1 45g Can | \$18.91 |
| 1 96g Cart | \$28.61 |

| | |
|-------|---------|
| 1 32g | \$17.71 |
| 1 45g | \$21.27 |
| 1 96g | \$32.19 |

Commercial

| | |
|--------------|----------|
| Current Rate | |
| 1 Yard | \$60.39 |
| 2 Yard | \$120.83 |

Commercial

| | |
|---|---------|
| Rate w/ 12.5% General Increase | |
| 1 Yard | \$67.93 |
| 2 Yard | \$135.9 |

2) Set the collection rates at the current levels.

3) Grant a General Rate Increase of an amount less than that requested by the Grantee which in the Board's discretion provides for a reasonable profit by Grantee.

Action to be taken following Board approval: Forward any executed resolution to Environmental Management Department for implementation.

Contact: Gerri Silva, MS, REHS, Environmental Management Director