



## Legislation Details (With Text)

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**Title:** HEARING - Consider adoption of Resolution adjusting the solid waste collection rates for South Tahoe Refuse, Inc. by either 1.9% to be effective February 1, 2011 with the understanding that an additional rate increase will be considered for January 1, 2012, or 24.33% to be effective February 1, 2011. (Est. Time: 15 Min.)  
Resolution 019-2011

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - STR Resolution 1.9%.pdf, 2. B - STR Resolution 24.33%.pdf, 3. Fully executed Resolution 019-2011

Date	Ver.	Action By	Action	Result
2/1/2011	1	Board of Supervisors	Adopted	Pass

HEARING - Consider adoption of Resolution adjusting the solid waste collection rates for South Tahoe Refuse, Inc. by either 1.9% to be effective February 1, 2011 with the understanding that an additional rate increase will be considered for January 1, 2012, or 24.33% to be effective February 1, 2011. (Est. Time: 15 Min.)

**Resolution 019-2011**

Fiscal Impact/Change to Net County Cost: There is no change in Net County Cost.

**Background:**

In accordance with the Franchise Collection Agreement between El Dorado County and South Tahoe Refuse, Inc., Section 19 - Compensation, the Board of Supervisors shall set the rates to be charged by the Grantee. The Agreement provides that the Board shall set the Contractors rates at least every two years to compensate the Grantee for its allowed costs of providing services and a profit determined in accordance with Section 19 of the Agreement.

On August 18, 2010, the Environmental Management Department received the South Tahoe Refuse Co., Inc. (STR) Annual Summary 2010 and letter requesting a rate adjustment of 24.33%. The basis for this request was STRs annual summary forecast for fiscal year 2011 which calculates a revenue shortfall for El Dorado County of \$503,962. In addition to transmitting the required annual summary, the August 18th letter described South Tahoe Refuses desire to negotiate a new franchise agreement with El Dorado County similar to the agreements STR has with the City of South Lake Tahoe and Douglas County, Nevada. The letter went on to state that if El Dorado County agreed to a new Franchise Agreement, STR would adjust its 2010 request and propose a 1.9% rate increase per the garbage and trash collection CPI index as publish by the Bureau of Labor Statistics; effective January 1, 2011. STR would then include El Dorado County in the consolidated general rate increase next

August for new rates to be implemented on January 1, 2012 under the terms of the new rate manual. (Attachment A)

Following the original rate request on August 18, 2010, the Environmental Management Department staff continued rate discussions with STR from August 2010 through December 2010. On December 17, 2010, STR submitted their final rate request which requested a 1.9% rate increase to be effective February 1, 2011, with the understanding that an additional rate increase will be considered for January 1, 2012 or a 24.33% rate increase to be effective February 1, 2011 as provided under the current franchise agreement. (Attachment B)

The Environmental Management Department and South Tahoe Refuse staffs have been working diligently on a new rate setting policies and procedures manual as part of the new franchise agreement negotiations. It is anticipated that the draft rate setting policies and procedures manual will be presented for consideration to the South Lake Tahoe Basin Waste Management Authority (JPA) at their next Board meeting in March 2011. Following that presentation to the JPA the Environmental Management Department intends to bring the item to the Board of Supervisors for consideration.

### **Previous Rate Adjustments:**

On March 15, 2005, the Board of Supervisors approved three yearly 9% rate increases for South Tahoe Refuse (STR); effective April 2005, January 2006 and January 2007. The first 9% increase effective April 2005 was to compensate STR for their operating costs. The 2006 and 2007 9% rate increases had two components - 3% for projected annual increases in STRs operating costs and 6% for financing and construction of Phase I of the Resource Recovery Facility. Based upon this Board action STR agreed to a 3% rate increase to compensate STR for their operating expenses in 2006 and 2007.

In August 2008, the Board passed a 2.23% adjustment for 2008 pass-through landfill expenses and associated franchise fees.

On December 16, 2008 the Board of Supervisors approved a 8% rate increase for South Tahoe Refuse to be effective January 1, 2009.

### **Staff Analysis:**

The current Franchise Agreement between South Tahoe Refuse Company, Inc. and El Dorado County was entered into on January 24, 1995. The Franchise Agreement provides for an initial term of ten (10) years up to December 31, 2004. The Franchise Agreement also provides for two (2) five (5) year renewal options in favor of STR. The options were exercised thereby extending the Franchise Agreement to December 31, 2014.

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 time as the Board deems appropriate, but no less often that 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 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 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 Grantees allowed profit is to be determined. It states in pertinent part, [t]he Grantee shall be entitled to a profit on its Operating Costs, to be determined by use of an Operating Ratio. The use of the term shall require that the Operating Ratio formula be used for determining the amount of profit to which the Grantee is entitled.

Under Section 19F the greater the amount of material recycled and diverted from land filling (diversion rate), the greater the percentage of profit for the Grantee. As the diversion rate increases, the Operating Ratio number decreases. Section 19F goes on to explain the manner in which the allowed profit is to be calculated from the Operating Ratio. The rates are then set in order to provide for the allowed profit.

In accordance with the South Tahoe Refuse Co., Inc. Annual Summary Fiscal Years 2011 and 2012, STR is reporting a diversion rate in excess of 33% which correlates to an operating ratio of 87%. The following chart demonstrates a STR's revenue, expenses, and revenue shortfall for the El Dorado County franchise area:

	Actual Year-Ending	Forecast Year-Ending
	June 30, 2010	June 30, 2011
Revenue	\$2,770,478	\$2,714,685
Operating/Pass-Through Exp	\$2,713,907	\$2,852,735
Operating Ratio	87%	87%
Provision for Profit	\$372,983	\$365,911
Revenue Deficiency	(\$316,412)	(\$503,962)

During rate increase discussions with STR from August 2010 through December 2010 the Environmental Management Department expressed concerns and there are unresolved items that require additional clarification/explanation to further evaluate the 24.33% rate increase. The items of concern include, but are not limited to;

- The STR Annual Summary for 2009 forecasted for fiscal year 2010 a revenue shortfall of \$9,000 however, the 2010 Annual Summary Fiscal Years 2011 and 2012 states that the 2010 actual financial results show a revenue shortfall of \$316,412. This change is based on a new activity based accounting allocation methodology.
- The use of variable inflation rates in the 2011 and 2012 forecasts (i.e. recycle sales forecasted at a inflation rate of .58% and .86% for 2011 and 2012 respectively however, an inflation factor of 1.5% and 3.0 % were utilized as a COLA adjustment for labor).

- The unequal allocation of revenue verses expenses to the franchise area. The Executive Summary in the Annual Summary Fiscal Years 2011 and 2012 states: "As it stands right now, the El Dorado County franchise account for 19% of the total revenue, but requires approximately 22% of total cost to generate this revenue."

Therefore, based on these unresolved items the Environmental Management Department cannot support a 24.33% rate increase.

As an alternative to the 24.33% rate increase STR submitted a request for a 1.9% rate increase based on the U. S. City Average, Garbage and Trash Collection, Consumer Price Index as published by the Bureau of Labor Statistics. The 1.9% is the calculated 12-month percent change between 2009 and 2010. Through the Solid Waste Rate Setting Policies and Procedures Manual negotiations with STR and the County, an agreement was reached that the U. S. City Average, Garbage and Trash Collection, Consumer Price Index as published by the Bureau of Labor Statistics is the best representation of the garbage and trash industry which fairly and accurately compensates the hauler for allowed expenses along with fairness to the ratepayer.

STR is proposing the following rate increases for consideration and approval of one of the alternative rate increase requests:

**Rates with 1.9% Increase**

<b>Residential</b>		<b>Residential</b>	
Current Rate		Rate w/ 1.9% Increase	
Unlimited	\$26.27	Unlimited	\$26.77
Senior Unlimited	\$23.30	Senior Unlimited	\$23.74

<b>Commercial</b>		<b>Commercial</b>	
Current Rate		Rate w/ 1.9% Increase	
(1) Cubic Yard (CY)	\$31.50	(1) Cubic Yard (CY)	\$32.10
(1) Compacted CY	\$42.17	(1) Compacted CY	\$42.97

**Rates with 24.33% Increase**

<b>Residential</b>		<b>Residential</b>	
Current Rate		Rate w/ 24.33% Increase	
Unlimited	\$26.27	Unlimited	\$32.66
Senior Unlimited	\$23.30	Senior Unlimited	\$28.97

<b>Commercial</b>		<b>Commercial</b>	
Current Rate		Rate w/ 24.33% Increase	
(1) Cubic Yard (CY)	\$31.50	(1) Cubic Yard (CY)	\$39.16

(1) Compacted CY	\$42.17	(1) Compacted CY	\$52.43
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The Environmental Management Department has approved the South Tahoe Refuse Company, Inc. written notification to each ratepayer as described in Section 19 of the Solid Waste Franchise Agreement (Attachment C). The hearing to adopt the proposed collection rate adjustments has been duly noticed in accordance with Section 66016 of the California Government Code.

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

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