



## Legislation Details (With Text)

**File #:** 22-2186      **Version:** 1

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**File created:** 11/15/2022      **In control:** Board of Supervisors

**On agenda:** 12/6/2022      **Final action:** 12/6/2022

**Title:** HEARING - Environmental Management Department recommending the Board receive a presentation by El Dorado Disposal on Organic Service for residential organic green waste-food waste and consider the following regarding solid waste collection rates for Franchise Area A and the Material Recovery Facility for Waste Connections of California, Inc., doing business as El Dorado Disposal Service:

1) Find that a \$3.07 Organic Service rate per month per home be added to customers in Franchise Area A, that the Material Recovery Facility Self-Haul Organics Rate be increased from \$15 to \$20.88 per cubic yard, and the over-weight charge for organics roll-off debris boxes increase from \$53.19 to \$120.84 per ton, to be in accordance, as outlined in the Solid Waste Rate Setting Policies and Procedures Manual. The Rate Manual provides for rate setting outside the normal annual process under Section 1, C for Unforeseen Circumstances.

2) Adopt and authorize the Chair to sign Resolution 179-2022 (Attachment B), adjusting the Material Recovery Facility Self-haul Organics gate rates from \$15.00 to \$20.88 and

3) Adopt and authorize the Chair to sign Resolution 180-2022 (Attachment C), adjusting the residential customer collection rates for El Dorado Disposal Service, Areas A, by an additional \$3.07 a month for every other week curbside Organic Service and the over-weight charge for organics roll-off debris boxes increase from \$53.19 to \$120.84 per ton, as an additional adjustment due to unforeseen circumstances of adding additional services to be in compliance with SB 1383 and County Ordinance 5164 to become effective January 1, 2023.

**FUNDING:** User Fees, Franchise Fees.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A. Blue Route - signed, 2. B. MRF Resolution - Unforeseen Circumstances, 3. C. Franchise Area A Resolution - Unforeseen Circumstances, 4. D. EDD Rate Increase Request, 5. E. 2022 EMD Public Notice EDD Special Rate Increase, 6. F. EDCO Organics 12-2022, 7. Public Comment BOS Rcvd. 12-5-2022, 8. Executed Resolution 179-2022, 9. Executed Resolution 180-2022

Date	Ver.	Action By	Action	Result
12/6/2022	1	Board of Supervisors	Approved	Pass

**HEARING** - Environmental Management Department recommending the Board receive a presentation by El Dorado Disposal on Organic Service for residential organic green waste-food waste and consider the following regarding solid waste collection rates for Franchise Area A and the Material Recovery Facility for Waste Connections of California, Inc., doing business as El Dorado Disposal Service:

1) Find that a \$3.07 Organic Service rate per month per home be added to customers in Franchise Area A, that the Material Recovery Facility Self-Haul Organics Rate be increased from \$15 to \$20.88 per cubic yard, and the over-weight charge for organics roll-off debris boxes increase from \$53.19 to \$120.84 per ton, to be in accordance, as outlined in the Solid Waste Rate Setting Policies and Procedures Manual. The Rate Manual provides for rate setting outside the normal annual process under Section 1, C for Unforeseen Circumstances.

- 2) Adopt and authorize the Chair to sign Resolution **179-2022** (Attachment B), adjusting the Material Recovery Facility Self-haul Organics gate rates from \$15.00 to \$20.88 and
- 3) Adopt and authorize the Chair to sign Resolution **180-2022** (Attachment C), adjusting the residential customer collection rates for El Dorado Disposal Service, Areas A, by an additional \$3.07 a month for every other week curbside Organic Service and the over-weight charge for organics roll-off debris boxes increase from \$53.19 to \$120.84 per ton, as an additional adjustment due to unforeseen circumstances of adding additional services to be in compliance with SB 1383 and County Ordinance 5164 to become effective January 1, 2023.

**FUNDING:** User Fees, Franchise Fees.

### **DISCUSSION / BACKGROUND**

On October 21, 2014 (Legistar 14-1047, Item 32), the Board adopted Resolution No. 187-2014 authorizing a new Solid Waste Services Agreement (Franchise Agreement) between the County and Waste Connections of California, Inc., doing business as El Dorado Disposal Service (El Dorado Disposal), for the collection of solid waste throughout the franchise area and operation of the Material Recovery Facility (MRF). In addition to significant changes from the previous agreement, this Franchise Agreement also incorporated a new Solid Waste Rate Setting Policies and Procedure Manual (Rate Manual) developed by NewPoint Group (now Crowe LLP).

"Base" years (every third year of the Franchise Agreement) and "Interim" years (years falling between base years). Base year rate adjustments require an in-depth financial analysis to determine if rates require adjustment, the amount of the adjustment, and whether or not an increase or decrease to rates is warranted. Interim year rate adjustments are calculated based upon 85% of the change in the U.S. City Average - Garbage and Trash Collection Consumer Price Index (CPI) of the previous 12 months (December to December). Interim year rate adjustments are subject to a minimum increase of 1% and a maximum increase of 6%. The franchise hauler is not obligated to request an increase in interim years. The Rate Manual provides specific requirements under Section 1, C 6 for the proposed revision of the franchise hauler's rates whenever the franchise hauler can establish to the satisfaction of the County that unforeseen circumstances have arisen that have or will materially affect the franchise hauler's revenues or costs under the Manual.

Interim year rate increases for El Dorado Disposal, Areas A, B, and C, were previously approved by the Board on the following dates:

- June 7, 2016 (Legistar 14-1047, Item 38, 1.75%),
- May 23, 2017 (Legistar 14-1047, Item 26, 1.51%),
- June 12, 2018 (Legistar 18-0825, Item 30) the Board approved a base year rate increase of 5.02% to El Dorado Disposal residential and commercial customer rates, Areas A, B and C, and a 1.69% CPI increase for MRF rates. The MRF rates are adjusted annually by CPI and are not subject to the base year rate setting process
- June 25, 2019 (Legistar 19-0920, Item 42 8.86%),
- August 25, 2020 (Legistar 20-0919, 3.46% to MRF and 6.69% to Franchise areas).
- June 21, 2022 (Legistar 22-0984, 4.07% to MRF and 4.07% to Areas A, B and C)

The rate increases in 2019 and 2020 reflected additional adjustments due to unforeseen circumstances resulting from increasingly restrictive changes in recycling laws and further declines in the recycling commodity market, and capital costs associated with the construction of the new Transfer Station/MRF. The Rate Manual provides for rate setting outside of the normal annual

process under Section 1, C for unforeseen circumstances.

Base year rate increases for El Dorado Disposal, Areas A, B, and C, were previously approved by the Board on the following dates:

- June 22, 2021 (Legistar 21-0904, 3.75% to MRF and 5.52% to Areas A, B and C)

SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016 set statewide methane emissions reduction targets and required CalRecycle to develop regulations to reduce organics in landfills as a source of methane. These regulations as require local jurisdictions to adopt and enforce an ordinance or similarly enforceable mechanism to implement relevant provisions of SB 1383 regulations.

On August 30, 2022, the Board of Supervisors (Board) approved County Ordinance 5164 (Ordinance) (Legistar Item 22-1188) which established the regulations and requirements for the County, generators, and other entities to be in compliance with SB 1383 for the reduction of organic waste. This ordinance created Chapter 8.45 titled "Organic Waste Disposal and Diversion Ordinance" and of Title 8 of the El Dorado County Ordinance Code.

In October 2022, Environmental Management requested the Franchisee provide additional services that are required by SB 1383 and Ordinance 5164. The Franchisee has responded with a rate adjustment letter along with supporting documentation to justify the proposed rate increases as an unforeseen circumstance due to the recently adopted Ordinance that will materially affect the franchise hauler's revenues and costs. The Franchisee provided EMD a proposed rate increases with justification for the additional services required by SB 1383 and Ordinance 5164.

On November 8, 2022 (Legistar 22-1964) the El Dorado Disposal Service Agreement was amended (Sixth Amendment) to provide a two-year extension for the completion of the MRF to October 20, 2024, and to incorporate the requirements as adopted in County Ordinance 5164 as required to be in compliance with SB 1383.

Environmental Management recommends the Board approve the increases listed above so that the State mandated services can be provided by the Franchisee and maintain the County in compliance with SB 1383.

## **ALTERNATIVES**

Denial of the requested additional adjustments due to Unforeseen Circumstances resulting of the additional services required by SB 1383 and County Ordinance 5164 would not be consistent with the terms of the Board approved Franchise Agreement and Rate Manual incorporated therein. Section 22 of the Franchise Agreement provides that rates are "established and adjusted" in accordance with the Rate Manual. The Manual provides that "The County should consider a proposed revision in a franchise hauler's rates whenever the franchise hauler can establish to the satisfaction of the County that Unforeseen Circumstances have arisen that have or will materially affect the franchise hauler's revenues or costs under this Manual." The County has asked the Franchisee to provide mandatory services to be in compliance with SB 1383 and County Ordinance 5164. The Board may choose to not approve the rate increases, should any "deficiencies" be identified in determining the rates, which would require the County to address the deficiencies and return to the Board with a resolution for Board adoption. Staff has reviewed the request and find no

deficiencies in the request, supporting data, or the required notice.

### **PRIOR BOARD ACTION**

See Discussion/Background above.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

### **FINANCIAL IMPACT**

The increase in rates proposed by El Dorado Disposal are directly related to the cost to provide these services to customers. The County's Franchise Fee will remain at 5%. However, as rates are incrementally increased, the County will see a slight increase in Franchise Fee revenue.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Clerk of the Board will obtain the Chair's signature on one (1) original copy of each adopted Resolution.
- 2) Clerk of the Board will forward one (1) copy of each executed Resolution to Environmental Management for further processing.

### **STRATEGIC PLAN COMPONENT**

Infrastructure, Good Governance

### **CONTACT**

Jeffrey Warren, REHS, Director  
Environmental Management Department