



A Public Agency

STAFF UPDATES



STAFF UPDATE

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Marshall Moran, Finance Manager
Date: August 22, 2013 Board of Director's Meeting
Subject: Update on 2013/2014 Franchise Rate Setting Process

Recommendation

This is an informational report and no action is necessary other than the various requested future responses below.

Analysis

This staff report has been provided to the Board monthly during 2013 commencing with the April 25, 2013 Board meeting. The purpose of this staff update report is to keep the Board and Member Agency staff informed on the timing, schedule of events and issues affecting Member Agencies during the 2014 Compensation Application(s) review (performed in 2013) and the Recommended Revenue Requirement process for the upcoming 2014 Rate Year (i.e., establishing rates for January 1 - December 31, 2014). The goal is to provide pertinent information for Member Agencies to effectively plan for and manage communications regarding the compensation application and rate setting process.

Attached is the current 2013 (for calendar year 2014 rates) Rate Approval Schedule (**Attachment A**).

Issues Affecting Recology 2014 Compensation Adjustment includes:

- Recology Annual Revenue Reconciliation for 2012. Recology submitted a Revenue Reconciliation Report to the SBWMA and Member Agencies on March 29, 2013 which compares the approved compensation owed to Recology for 2012 with the actual net compensation retained by Recology after paying for Pass-Through costs for disposal at Shoreway and Agency fees (e.g., Franchise Fees) paid to each Member Agency. Each Agency will have a surplus or shortfall which will be added to or subtracted from the 2014 Revenue Requirement. The Recology 2012 Revenue Reconciliation Report has been reviewed by staff and audited by Hilton, Farnkopf and Hobson (HF&H) as part of the Financial Systems Audit. The results of this Audit will be presented to the Board at a proposed special Board meeting in September; however, the final Revenue Reconciliation Surplus/Shortfall and interest for each Agency are included in the SBWMA's August 16, 2013 Draft Report Reviewing the Recology 2014 Compensation Application.
- Recology Performance Incentive/Disincentive and Liquidated Damages Payments. The Franchise Agreement(s) with Recology prescribe that payments related to performance incentives/disincentives will be calculated in the company's Annual Report submitted in mid-February and then included in the Compensation Application (submitted on June 14, 2013 for Rate Year 2014) each year (with the

exception of Contamination related disincentive payments which are calculated quarterly and paid directly to SBWMA). Therefore, both incentive payments due to Recology and disincentive payments (with the exception of Contamination related disincentives) due to Member Agencies are included in the Annual Compensation Application. Staff has conducted an audit of the company's 2012 Annual Report which in part includes confirmation of the reported Performance Incentives and Disincentives and Liquidated Damages payments. In addition, staff conducted an audit of the company's customer service systems and deficiencies in performance found per both audits have increased the Liquidated Damages due to the Member Agencies to be used to offset Performance Incentives included in the 2014 rates.

Per the contract negotiations presented to the Board recently, there are two substantive changes to the calculation of Performance Incentives/Disincentives that will impact 2014 rate setting. The first change is to omit the calculation of Initial Missed Pick-Ups which will result in a reduction of \$193,950 in incentive payments to Recology for Rate Year 2014. However, per the audit results, the company owes the Member Agencies a total of \$20,950 in Liquidated Damages that will be applied to the Recology 2014 Compensation Application.

Schedule of Rate Review Activities

March 2013

- Recology submitted the 2012 Revenue Reconciliation Report to the SBWMA and Member Agencies.
- SBWMA Board approved a contract with HF&H to audit the financial data (approx. \$100 million) provided by SBR and Recology for 2012 to ensure this data (including the Revenue Reconciliation) is accurate.

April 2013

- Staff made a presentation at the April 25th Board Meeting to discuss the rate setting process, including a review and discussion of a draft rewrite of the Recology 2013 Compensation Application report to improve its clarity and ease of use for Board Members and Member Agency staff.

May 2013

- Member Agencies were requested to provide feedback (optional) to the SBWMA and Recology on the draft revised Recology 2013 Compensation Application by May 9th to include any new changes in the Recology 2014 Compensation Application due June 14; however, no comments were received.

June 2013

- SBWMA issued a letter to the Board requesting feedback from all agencies on estimated 2014 Member Agency fees (e.g., franchise fees) included in their solid waste rates.
- June 14 – Recology submitted its 2014 Compensation Application.

July 2013

- July 1 – SBR submitted their 2014 Compensation Application.
- July 8 – SBWMA staff issued comments to Recology on its 2014 Compensation Application.
- July 8 – SBWMA Board deadline to issue comments to Recology on its 2014 Compensation Application.
- July 3 – Member Agencies responses due to SBWMA on 2014 estimated Member Agency fees.
- July 19 – SBWMA issued reports to Member Agency staff:
 - Estimated residential revenue changes due to cart migration by Member Agency since July 2012.
 - Projected 2013 and 2014 residential and commercial revenue (based on six months of actual).

- Residential rates versus cost analysis by Member Agency. Member Agencies are encouraged to review their residential rate structure for rate versus cost deficiencies (i.e., rates don't cover costs) and rate subsidization of small carts by large carts.
- Projected 2013 tonnage (based on six months of actual) compared to the base tonnage projection in the 2013 rate projections in September 2012 and 2014 projected tonnage. These projections will be used to estimate Member Agency disposal expense.
- Summary of 2014 Member Agency fees based on agency feedback for final agency review
- July 30 – Recology submitted its revised 2014 Compensation Application based on SBWMA staff and Member Agency comments.

August 2013

- August 16 – SBWMA to issue Draft Report Reviewing Recology's 2014 Compensation Application. Included in this Report is the recommended Revenue Requirement and rate adjustment for 2014.
- August 16 – SBWMA to issue Draft Report Reviewing SBR's 2014 Compensation Application.
- August 30 – Member Agencies comments due back on SBWMA Draft Report(s) Reviewing Recology's and SBR's 2014 Compensation Applications.

September 2013

- September special Board meeting
 - Discussion on 2014 Compensation Application(s) and rate setting process for new Board members.
 - Staff reports on 2012 Financial Audits of Recology and SBR conducted by HF&H including the Recology 2012 Revenue Reconciliation.
- September 19 – SBWMA draft Final Report Reviewing Recology's 2014 Compensation Application issued (for consideration at potential September 26, 2013 Board meeting) based on Board feedback. Included in this Report is the recommended total collection rate adjustment for 2014.
- September 19 – SBWMA Final Report Reviewing SBR's 2014 Compensation Application issued (for consideration at potential September 26, 2013 Board meeting).
- September 26 (date not approved yet) – Board consideration of the SBR 2014 Compensation Application.
- September 26 (date not approved yet) – Board consideration of the Recology 2014 Compensation Application and total recommended Revenue Requirement for 2014.

September 27 – December 31, 2013

- Member Agencies notice and approve final 2014 solid waste rates.

November 2013

- Report to Board on recommended January 1, 2014 Shoreway tip fee adjustments including Bond proforma update for 2014 SBWMA financial projection with assumed tip fee and cash reserve balances.

January 2014

- Board discussion on improvements and changes to the rate setting process for 2014.

Attachment:

Attachment A – Draft 2014 Rate Approval Schedule

Attachment A

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2014 Rate Approval Schedule

Member Agency Rate Setting Process

The Recology 2014 Compensation Application was submitted to the SBWMA and Member Agencies on June 14, 2013 per the revised timeline approved by the Board of Directors on February 28, 2013. On August 16, 2013, the SBWMA will issue its Report Reviewing Recology's 2014 Compensation Application and the recommended Total Solid Waste Revenue Requirement for 2014. The Member Agencies then have until August 30th, ten business days, to provide comments on the SBWMA's Report. The comments received will be incorporated in the Final SBWMA Report Reviewing Recology 2014 Compensation Application that will become binding upon the Board's consideration for approval at the September Board meeting. While the individual Member Agencies actually set solid waste rates for their jurisdictions, any rate increases put forth by the Member Agencies that are less than recommended in the SBWMA Report and cause a shortfall in compensation to Recology will result in interest payments for amounts owed to Recology. Conversely, any surplus revenue collected by Recology is subject to interest payments to the respective Member Agency.

September 26, 2013 BOD Meeting

- Recology and SBR Compensation Applications Considered for Approval
- Total Recommended Revenue Requirement Considered for Approval

Member Agency Residential Billing Schedule

Group A: October-November-December (Billed September 30, 2013; December 31, 2013)

- Menlo Park
- Redwood City (Not applicable to Residential, Redwood City does its own billing.)
- San Mateo
- West Bay Sanitary District

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**Group B: November-December-January
(Billed October 31, 2013; January 31, 2014)**

- Atherton
- Burlingame
- San Carlos

**Group C: December-January-February
(Billed November 30, 2013; February 28, 2014)**

- East Palo Alto (Not applicable to Residential.)
- Foster City
- Hillsborough
- County of San Mateo

Prop 218 Public Notice Implications

Prop 218 requires an agency to provide 45 days public notice directly to all account holders prior to authorizing a rate increase. If more than 50% of all account holders file a protest letter within the 45 day public comment period, the agency cannot adopt the proposed rate increase.

Bill Insert Considerations

Recology typically requires that a bill insert is prepared and ready for insertion with the bills a minimum of two weeks prior to the scheduled bill issuance date. However, the company may reduce this deadline to 5 business days for special circumstances, such as a Prop 218 Notice. The company has detailed guidelines regarding the specifications for bill inserts and will share these upon request. Agencies issuing a Prop 218 Notice via Recology's bills will need to **pay directly for the costs** associated with production and printing but will save on mailing expenses since Recology can include the insert with its bills at no additional cost.

Direct Mail Considerations

Member Agencies sending the Prop 218 Notice via direct mail will need to **pay directly for the costs** associated with production, printing and mailing. Agencies sending a direct mail piece typically include these costs in their rates. Sending the Prop 218 Notice via direct mail provides the Agency with total control and flexibility regarding production and mailing of the notice.

Bill Insert vs. Direct Mail:

Group A

These agencies may be able to prepare and print a bill insert in time for inclusion with the September 30, 2013 mailing. Therefore these agencies will need to produce a direct mail piece in order to close the Prop 218 public hearing process and adopt rates prior to January 1, 2014.

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Proposed Schedule:

- September 26, 2013..... SBWMA BOD Approves Recology and SBR Compensation.
- October 1-15 Governing body or Agency staff approves issuance of the Prop 218 notice.
- October 16-31 Prop 218 Notice printed and issued via direct mail
- November 1-15 Governing body closes the Prop 218 public notice period and adopts 2014 rates effective January 1, 2014.
- December 31..... First Recology bill issued with new 2014 rates.

Group B

These agencies will likely be able to prepare and print a bill insert in time for inclusion with the October 31, 2013 mailing. However, since the Prop 218 process will not close for 45 days after issuance of the Prop 218 rate increase notice, these agencies will have to bring the results of the Prop 218 notice before their governing body between December 16 and 31, 2013. Otherwise, these agencies will need to produce a direct mail piece in order to close the Prop 218 public hearing process prior to January 1, 2014.

Proposed Schedule:

- September 26, 2013..... SBWMA BOD Approves Recology and SBR Compensation
- October 1 – October 15..... Governing body or Agency staff approves issuance of the Prop 218 notice.
- October 31 Prop 218 Notice included with Recology bills
- December 15-31 Governing body closes the Prop 218 public notice period and adopts 2014 rates.
- January 31, 2014 First Recology bill issued with new 2014 rates including a retroactive rate adjustment for January.

Group C

While these agencies will have ample time to prepare and print a bill insert in time for inclusion with the November 30, 2013 mailing, this is moot since the 45 day Prop 218 notification period will not close until after January 1, 2014 (i.e., on January 14, 2014). Therefore these agencies will be required to produce a direct mail piece in order to close the Prop 218 public hearing process prior to January 1, 2014.

Proposed Schedule:

- September 26, 2013..... SBWMA BOD Approves Recology and SBR Compensation
- October 1-15 Governing body or Agency staff approves issuance of the Prop 218 notice.
- October 16-31 Prop 218 Notice printed and issued via direct mail
- December 1-15 Governing body closes the Prop 218 public notice period and adopts 2014 rates.
- February 28, 2014..... First Recology bill issued with new 2014 rates including a retroactive rate adjustment for January and February.

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September – November 2013 Potential Future Board Agenda Items
(meeting dates subject to change once Board adopts revised 2013 Board Meeting Calendar)

September 12, 2013 – Special Board Meeting

- *Study Session:* Briefing on Contractors' Annual Compensation Adjustment Process
- Resolution Approving Response to Grand Jury Report entitled "South Bayside Waste Management Authority Board – Elected Officials or Senior Management Staff" (action required before 9/16/13)
- Resolution Approving Recology Customer Service Call Center Monitoring Results
- Staff Update on Findings from Review of Collection Services and Facility Operations Reports, Tonnage Data and Customer Service Systems Audits
- Staff Update on Findings from Review of Collection Services and Financial and Accounting Systems Audits

September 26, 2013 - Regular Board Meeting

- Resolution Approving 2013 South Bay Recycling Compensation Application
- Resolution Approving 2013 Recology San Mateo County Compensation Application
- Resolution Approving Permit for Tracy HHW Processing Facility and Indemnity Agreement with WM Curbside
- Approval of Quarterly Investment Report as of 6/30/13
- Resolution Approving 4th Amendment to Executive Director's Employment Agreement
- Executive Director's Goals for FY1314
- Presentation on Updated Website and Mobile Application Tool
- Staff Updates

October 24, 2013 - Regular Board Meeting

- Discussion on Non-Exclusive Franchise Options for Commercial Recycling
- Resolution Approving 2014 Public Education Plan
- Contractor Quarterly Updates
- Other items TBD

November 21, 2013 - Regular Board Meeting

- Approval of Quarterly Investment Report as of 9/30/13
- Consideration of Shoreway Facility Tipping Fee Adjustments Effective 1/1/14
- Staff Update on Recology Implementation of Collection Services and Facility Operations Reports, Tonnage Data and Customer Service Systems Audit Recommendations
- Other items TBD