



Council Agenda Report

Item 6c

Department: Utilities
Cost Center: 6107
For Agenda of: 4/19/2022
Placement: Public Hearing
Estimated Time: 30 minutes

FROM: Aaron Floyd, Utilities Director

Prepared By: Jordan Lane, Solid Waste and Recycling Coordinator; Rebecca Bernstorff, Business Services and Administrative Manager

SUBJECT: 2022 SOLID WASTE RATE STUDY AND A RESOLUTION ESTABLISHING INTEGRATED SOLID WASTE RATES

RECOMMENDATION

Adopt a Resolution entitled “A Resolution of the City Council of the City of San Luis Obispo, California, establishing Integrated Solid Waste Rates”, provided there is not a majority protest against such increase.

REPORT-IN-BRIEF

In accordance with the City’s Rate Setting Process and Methodology Manual for Integrated Solid Waste Management Rates (Rate Setting Manual, Attachment B), a franchised waste hauling company has an opportunity to apply for a rate increase every three years. The City of San Luis Obispo received a rate application from San Luis Garbage Company proposing (1) an increase to curbside waste collection of 17.75 percent and (2) a temporary rate increase of 8.88 percent to cover a delay in rate adoption, in addition to an impending fee increase based on 5.4 percent of gross hauler receipts imposed by the San Luis Obispo Integrated Waste Management Authority (IWMA) on all member agencies starting July 1, 2022. The proposed solid waste rates are needed to continue to provide environmentally sound solid waste, recycling, and green waste collection and processing services to City customers. The proposed solid waste rates were prepared in compliance with Proposition 218 and the City’s Rate Setting Manual.

DISCUSSION

Background

San Luis Garbage Company (the Garbage Company) has three Franchise Agreements with the City to provide collection, transportation and disposal of solid waste, recycling, and green waste (Attachments C, D, and E). Each Franchise Agreement outlines the obligations of both parties in areas like service delivery, record keeping, and regulatory compliance. In accordance with the agreements, the City’s solid waste, recycling, and green waste is collected for processing by the Garbage Company each week for residential customers and up to seven days per week for commercial customers.

On August 10, 2021, the Garbage Company submitted its base year rate application (Attachment F) for consideration by the City. One major factor impacting the cost of waste service is Senate Bill 1383¹ (Short-lived Climate Pollutants, SB 1383) which was adopted in 2016 and takes effect this year, 2022, requiring statewide waste collection changes to reduce greenhouse gas emissions at landfills. Organic waste decomposes in landfills and generates methane gas, a greenhouse gas at least 80 times more potent than carbon dioxide. Landfills are the third largest source of methane gas in California, and SB 1383 aims to reduce emissions by decreasing the amount of organic material that is landfilled in the State. Beginning in 2022, the City is required to provide organic waste collection services to all residents and businesses by expanding its existing curbside green waste program and as a result, new responsibilities have been assigned to the Garbage Company for the collection and disposal of additional incoming organic waste. As required by newly applicable Senate Bill 1383, Council will also be considering, as a separate agenda item, the required diversion-based amendments to the three Franchise Agreements on April 19, 2022.

The City's Rate Setting Process and Proposed Increases

The City's Rate Setting Manual provides a process and schedule for review of the Garbage Company's rates. Under this methodology, base year applications are prepared every three years. Base year applications require a detailed submittal and review of past, current, and future operating expenses.

As part of the rate request review and analysis, the Garbage Company outlines the revenues, expenditures, profits, and operational information that is necessary to measure compliance with the terms of the Rate Setting Manual and to document the need for the proposed rate increase. In addition to the financial documentation requirements, the Rate Setting Manual aims to have rates that are environmentally sound, easy to understand, and supportive of the City's waste reduction goals.

Rate Setting Objectives

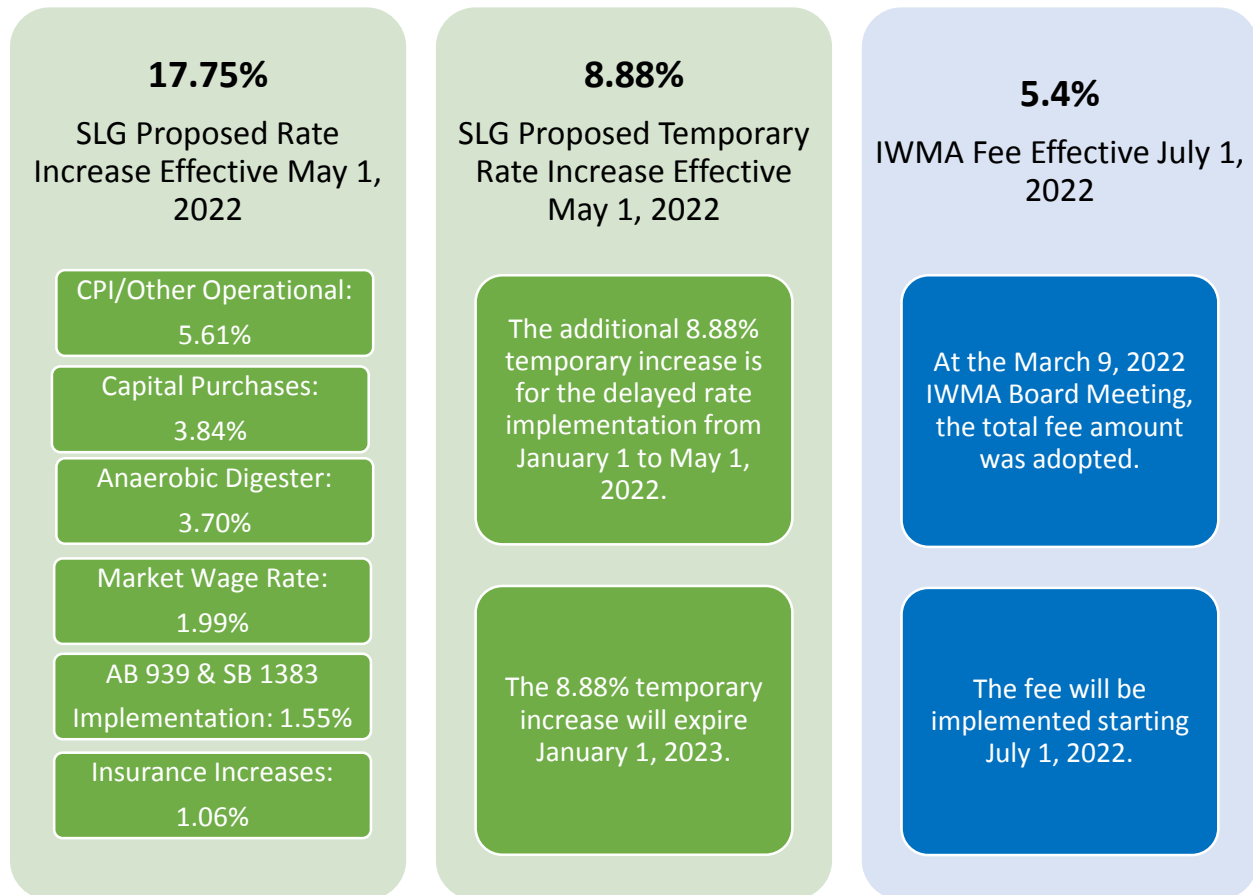
1. Easy to understand
2. Environmentally sound
3. Supportive of waste reduction goals

Based on the costs of implementing new State regulations and nationwide increases in operational costs (supplies and fuel for example), insurance, and labor, San Luis Garbage Company has submitted a Base Year Rate Adjustment Application to the City for a 17.75 percent increase effective May 1, 2022 and onward, a temporary 8.88 percent rate increase to be effective May 1, 2022 – January 1, 2023 and a 5.4 percent IWMA fee increase to be effective July 1, 2022 and onward.

¹ S. SB-1383, Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code SB-1383 Short-lived climate pollutants: methane emissions: dairy and livestock: organic waste: landfills. (2016) enacted).

Three Rate Increases and the Reasons for Them

There are three rate increases proposed with this resolution as follows.



1) A proposed 17.75 percent rate increase effective May 1, 2022 is based on:

- a. **Equipment.** Across the country, industries are facing financial and operational challenges caused in large part by the pandemic, inflation, and material shortages. The proposed rate increase from the Garbage Company considers increases in costs associated with capital, the anaerobic digestion facility, market wage adjustments, and other operating functions.
- b. **Capital.** Increased revenue will be used to fund replacement of service vehicles compliant with California specifications. New vehicles are necessary to support increased demand of the curbside organic waste program while reducing statewide emissions. Worn containers and equipment will also be replaced.
- c. **Anaerobic Digestion Facility.** The local anaerobic digestion facility, which processes the City's curbside food and yard waste and turns it into compost, has been fully operational and serving San Luis Obispo since 2018 but has met some unanticipated challenges with being the first of its kind built in the United States. Challenges impacting the rate increase include:

- i. Unanticipated rises in prevailing wage and material costs,
- ii. Deficiencies in the quantity, quality, and availability of feedstock to produce renewable electricity,
- iii. Accelerated equipment replacement,
- iv. Permit constraints related to incoming tonnage,
- v. Upgrades to meet necessary building specifications,
- vi. Modifications including the addition of screening mechanisms, and
- vii. Waste stream improvements like new Fats, Oils, and Greases equipment.

The facility plays a major role in the City's compliance efforts to meet the requirements of SB 1383 and the City's goals of carbon neutrality. The success of these programs relies heavily on the facility operating properly and processing all incoming food and yard waste. The Garbage Company must maintain a fleet capable of collecting and transporting an increased inflow of organic waste, must provide service to all residential and commercial customers, must provide labeled bins to all customers, and must continue to support diversion of curbside recycling and organics.

- d. **Market Wage Adjustments.** Employers throughout the country are facing challenges with hiring and retaining qualified labor. San Luis Garbage is no exception and has found positions that require commercial driving licenses, customer service representatives, and mechanics are especially difficult to hire. The proposed rate increase accounts for an increase of \$2 per hour and 5% salary of non-management positions to help attract and retain qualified employees to deliver safe and quality service.
- e. **Other.** Three other reasons for the proposed rate increase include: insurance premium increases, AB 939/SB 1383 fee increases, and overall increases in CPI.

Table 1: Key Rate Increase Factors

Key Factor	Proposed Rate Increase
Capital investment costs for new collection vehicles, replacement waste containers, and additional waste containers to meet the demands of SB 1383 compliance.	3.84%
Increased capital equipment investments and escalating operating expenses related to the anaerobic digester.	3.70%
Market wage adjustments to attract and retain safe and quality employees.	1.99%
Increases in insurance premiums.	1.06%

2) A temporary rate increase of 8.88% effective May 1, 2022 and expiring January

Increased AB 939/SB 1383 fee costs which are used to fund the City waste diversion programs associated with California Assembly Bill 939 and Senate Bill 1383.	1.55%
Increases in other operational expenses including a Consumer Price Index increase of 5.3%.	5.61%
Total Proposed Base Year Increase	17.75%

1, 2023.

San Luis Garbage Company's 8.88 percent temporary rate increase accounts for a period of uncollected revenues from January 1 to May 1, 2022, and is required by the Garbage Company to fund operations over the next year. The delay in rate adoption was due to the timing of the County of San Luis Obispo's withdrawal from the IWMA in relation to the effective date of SB 1383 regulations. SB 1383 became effective on January 1, 2022 and as a result, local government solid waste sections are expanding to comply. As members of the IWMA², the City and other Member Agencies have assigned specific requirements to the regional body that would otherwise be designated to jurisdictions. Assigned duties of the IWMA include providing outreach and education, performing compliance inspections, record keeping and reporting, and administering waivers all which create new costs. The cost of IWMA operations is divided between Member Agencies. The County's sudden departure created both fiscal and operational impacts to the IWMA's implementation of SB 1383 and were not fully known in time for rate adoption January 1, 2022.

A study of the IWMA fee was necessary for rate adoption under Proposition 218³ and was completed in time for the final 5.4% IWMA Board fee adoption on March 9, 2022.

According to the City's adopted Rate Setting Manual, the City will include the value of revenue lost due to the delay as part of the pending Base Year Rate Adjustment Application. The proposed temporary fee of 8.88 percent allows the Garbage Company to remain operational despite being deficient in revenues collected between January 1 and May 1, 2022. The proposed fee is temporary and will expire on January 1, 2023.

² The IWMA is a government entity formed through a Joint Powers Authority and is now governed by an eight-person Board of elected officials from the cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, San Luis Obispo and one member representing eleven Community Service Districts. These jurisdictions, along with the County, formed the IWMA in 1994 to plan and implement regional solid waste and hazardous waste programs. The scope of services provided by the IWMA to Participating Agencies are based on California statutes and regulations intended to optimize economies of scale and support regional compliance. The County's departure impact the revenues and expenditures of the agency.

³ [In general, the intent of Proposition 218 is to ensure that all taxes and most charges on property owners are subject to voter approval. In addition, Proposition 218 seeks to curb some perceived abuses in the use of assessments and property-related fees, specifically the use of these revenue-raising tools to pay for general governmental services rather than property-related services.](#)

3) IWMA Fee Increase of 5.4%

The IWMA requires funding to support the planning, programming, and implementation of the statutory mandates and related regulations established by the State of California. Specifically, fees are used to support operations managing edible food recovery goals, public education and outreach, contamination monitoring and sampling activities, recordkeeping and reporting, organic and edible food recovery, and infrastructure capacity planning. Fees established by the IWMA impact all 18 participating cities and Community Service Districts (Participating Agencies) throughout San Luis Obispo County. The IWMA's primary sources of revenue are (1) a solid waste management fee consisting of 2 percent of the gross revenue collected from commercial customers, \$0.30 per month for residential customers charged less than \$50 per month, and 2 percent per month for residential customers charged more than \$50 per month; and (2) a landfill tipping fee surcharge of \$3 per ton at the landfills in San Luis Obispo County. Solid waste management fees established by the IWMA are imposed on all franchised waste haulers and roll-off companies in any of the Participating Agencies served by the IWMA. Costs are passed through to customers as a line item separate from the customer's curbside waste service charges.

On March 9, 2022, the IWMA Board adopted a 5.4 percent fee on gross hauler receipts to account for increases in regulatory costs associated with SB 1383 (performing curbside bin inspections, managing waivers and exemptions, fulfilling educational and outreach requirements, etc.), structural deficits beginning with fiscal year 2020-2021, and capital outlay and reserve requirements. The IWMA hired HF&H Consultants to evaluate program costs and expenditures necessary to provide Participating Agencies with the resources to be compliant with SB 1383. HF&H compared the IWMA's total projected revenues to the total revenue required for SB 1383 implementation and determined that the agency would need to collect an additional \$1,800,000 annually from haulers and landfills. Starting July 1, 2022, the new fee reflecting 5.4 percent of gross hauler receipts will replace the existing IWMA fee currently found on residential and commercial customer bills.

Regional and Statewide Comparisons and Impacts to Customers

According to a study performed by the League of California Cities, nine out of ten cities indicated an increase in solid waste service rates largely due to the impacts of SB 1383⁴. The average customer in the City of San Luis Obispo has a 32-gallon service level and will continue to pay 9-15 percent less than other local entities in our region. Neighboring cities and districts are being faced with 22-46 percent base year increases, not yet taking into account the increased IWMA fee.

⁴ <https://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Policy-Development/Policy-Committees/Environmental-Quality/Cal-Cities-Waste-Rate-Survey-Infographic-Feb-2021.aspx>

Solid waste rate increases for Base Year 2022, and Interim Years 2023 and 2024 are proposed to become effective on May 1, 2022, January 1, 2023, and January 1, 2024. Proposed rates for residential customers can be found in Attachment G, while proposed rates for commercial customers can be found in Attachment H. Sample rates for the first year of the rate increase for standard residential customers can be seen in Table 2 below. The average residential customer in the City of San Luis Obispo has 32-gallon level service (cost of service based on volume of solid waste bin, not recycling or organics) and would see an increase of \$4.73 per month.

Table 2: Standard Residential Service Rate Increases

Service Level (includes solid waste, recycling, and green waste services)	Current Rate	Proposed May 1, 2022 Rate	Proposed July 1, 2022 Rate (after IWMA increase)
Economy Rate (32 Gallon Container)	\$17.78	\$22.51	\$23.70
Standard Rate (64 Gallon Container)	\$35.56	\$45.03	\$47.41
Premium Rate (96 Gallon Container)	\$53.35	\$67.56	\$71.14

Previous Council Action

2022 Third-Party Solid Waste Rate Study (Attachment I)

Every three years, the Garbage Company performs a solid waste rate audit as required by the Rate Setting Manual. Historically, rate studies have been performed under contracts held by the Garbage Company, however, the City acknowledges the benefits of contracting with a third-party agency to perform the study under the purview of the City. On November 17, 2020, City Council approved a budget of \$150,000 to fund a Request for Proposals (RFP) for a third-party rate study and a Rate Setting Manual update. The consultant R3 Consulting was contracted through the RFP process to perform the rate study and began work for the City of San Luis Obispo in August 2021. The scope of work completed in the rate study includes:

1. Review of the 2022 Base Year Rate Application for consistency with the Rate Setting Manual methodology
2. Review of the 2022 Base Year Rate Application for mathematical accuracy
3. Review of the Garbage Company's 2019 and 2020 audited financial statements
4. Review of the Garbage Company's 2021 and 2022 projected revenues and expenses for reasonableness, including general consistency with changes in reported revenues, accounts, and tonnages
5. Review of the Garbage Company's survey of rates in neighboring communities

The rate study was completed on March 28, 2022 and supports the proposed rate adjustments. The Rate Setting Manual update is expected to begin as a regional effort in 2022.

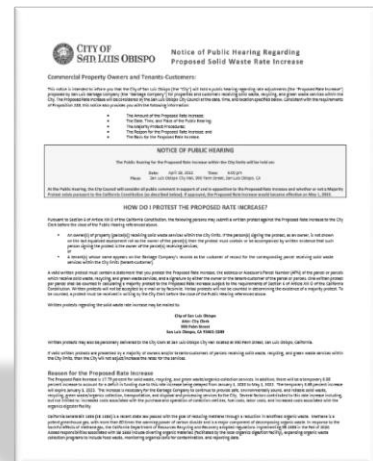
Policy Context

The recommendation to increase solid waste rates to maintain three-streams (solid waste, recycling, and green waste) of service to our community aligns not only with our Rate Setting Manual, City's Climate Action Plan⁵, and Municipal Code⁶, but also with regulations of the State of California. The City of San Luis Obispo is a leading agency in curbside green waste service and processing. The Hitachi Zosen Inova anaerobic digestion facility is the first in the United States and began accepting the City's curbside green material in 2018. The existing curbside green waste program and processing facility show that San Luis Obispo is leading the State towards its mission of reducing landfilled green waste going to the landfill by 75 percent by 2025.



Public Engagement

In compliance with Proposition 218 noticing requirements, a public notice was mailed to every residential and commercial property in the City of San Luis Obispo on March 5, 2022, 45 days prior to the Public Hearing on April 19, 2022. The notice includes the proposed rate increase, a summary of the purpose of the increase, a fee schedule, and instructions on how to protest the proposed increase. The notices are also posted on the Garbage Company's website and are included as Attachment G and H. A [Frequently Asked Questions](#) webpage was also added to the City's website to increase community awareness of the proposed rate increase and benefits to the community.



CONCURRENCE

The City's Finance Department concurs with the recommended action.

⁵ City of San Luis Obispo Climate Action Plan Update and CEQA GHG Emissions Thresholds. (2020, August 3). Retrieved from <https://www.slocity.org/home/showdocument?id=27813>

⁶ City of San Luis Obispo Municipal Code Section 8.04.040 " Collection Required at Least Once a Week.". Retrieved from <https://sanluisobispo.municipal.codes/Code/8.04.040>

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to the recommended action, because the action does not constitute a “Project” under CEQA Guidelines Sec. 15378.

FISCAL IMPACT

Budgeted: N/A

Budget Year: N/A

Funding Identified: N/A

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund				
State				
Federal				
Fees	\$150,000		\$74,570	
Other:				
Total	\$150,000	\$0	\$74,570	\$0

On November 17, 2020 Council approved collection of \$150,000 through customer solid waste bills to fund a third party solid rate study and an update to the City's Rate Setting Manual. An RFP for the rate study was published and a contract was awarded to R3 Consulting Group, Inc. (R3), signed on May 20, 2021. Remaining funds are reserved for the Rate Setting Manual update which is expected to be executed in 2022.

As a part of the Garbage Company's 17.75 percent increase, 1.55 percent includes an increase to current funds used for the City waste diversion programs associated with California Assembly Bill 939 and Senate Bill 1383. Section 41901 of the California Public Resources Code authorizes a city or county to impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing an integrated waste management plan. Section 41902 adds that a local agency may directly collect the fees authorized by this chapter or may, by agreement, arrange for the fees to be collected by a solid waste hauler providing solid waste collection for the city or county.

As part of this proposed rate increase, the City will directly receive an additional 1.55 percent of AB 939/SB 1383 fees to fund the City's growing Solid Waste and Recycling Program. The fees are restricted for use directly related to waste diversion and reduction efforts and will fund the necessary staffing and resources to oversee the program. The Program will be responsible for outreach, implementation, enforcement, and compliance measures mandated by SB 1383.

Appropriation of the funding to the program's budget will occur through the City's Supplemental Budget process.

ALTERNATIVES

Continue Consideration of the Proposed Solid Waste Rates. Council may elect to continue consideration of the proposed solid waste rates. The proposed solid waste rates are necessary to continue providing environmentally sound solid waste, recycling, and green waste collection and processing services to the community. The proposed rates were prepared in compliance with Proposition 218 and the City's Rate Setting Manual and reflect the cost of programmatic changes required by the State of California. The level of service provided to the community by San Luis Garbage meets the terms stated in the Franchise Agreements. Consulting firm R3 Consulting confirms and verifies that the proposed rates are justifiable and accurate. Therefore, this alternative is not recommended.

ATTACHMENTS

- A. Draft Resolution establishing Solid Waste Rates 2022
- B. City of San Luis Obispo Rate Setting Process and Methodology Manual for Integrated Solid Waste Management
- C. Solid Waste Contract
- D. Recycling Contract
- E. Green Waste Contract
- F. 2022 Base Year Rate Adjustment Application
- G. Proposition 218 Notice – Residential Solid Waste Rates
- H. Proposition 218 Notice – Commercial Solid Waste Rates
- I. 2022 Solid Waste Rate Study