CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC WORKS

DIRECTOR'S HEARING ON PROPOSED REFUSE RATES

CITY HALL

1 DR. CARLTON B. GOODLETT PLACE, ROOM 400

SAN FRANCISCO, CALIFORNIA 94102

Wednesday, April 24, 2013

(Pages 427 - 591)

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Wednesday, April 24, 2013 1:00 o'clock p.m.

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P R O C E E D I N G S

DIRECTOR NURU: All right. I'd like to call this hearing to order.

Good afternoon, I am Mohammed Nuru of the Department of Public Works for City and County of San Francisco. This is the fourth day of the Director's Hearing on Recology's application for the increase in residential refuse collection and disposal rates.

Today is Wednesday, April 24th. The agenda for today is on the table on the side. As in every hearing we will reserve the last period for public comment. Speaker cards are available at the table. And I will ask that you fill them out so that I have an indication of the number of people wishing to speak today. You may also convey your comments to the ratepayer advocate, Mr. Peter Deibler, standing.

Today we also have Ms. Deborah Fuqua transcribing our meeting this afternoon. I would like to remind everyone who speaks to come forward and speak clearly into the microphone so that she can take your entire testimony. Please do not speak from your seat in the audience.

Today's hearing will start with a discussion of the company's revenue projections and caps on apartment rates. And then we will have a discussion on pay per set-up, and the ratepayer advocate will ask the questions about this and the new rate structure.

We will have David Assmann from Department of Environment present the exhibits that he promised on the first day of the hearing. And, finally, we'll come back with some follow-up presentations and cross-examinations of the topics that we've covered earlier, such as composting tipping fees, workman's compensation and others.

The ratepayer advocate will also be given an opportunity to cross-examine company representatives as well as City staff. Before public comment, the companies and the Department of Environment will have a few housekeeping measures that they will present.

Once again, we have a lot of items to cover, and I will ask Mr. Legg to direct cross-examination and keep things in order.

Mr. Baker, does the company have any additional information they would like to present at this time?

MR. BAKER: Good afternoon, Mr. Nuru. We do have a housekeeping matter. Mr. Legg asked for a clearer copy of Exhibit 46, and we have that. I'll hand it forward and you can substitute that for the ones in your binders.

(Exhibit 46 re-marked for identification)

DIRECTOR NURU: Thank you.

MR. BAKER: Apart from that, we do have some additional information regarding some of the items on your agenda to respond to specific questions that were asked on Monday. We have a couple of exhibits to illustrate some of those points.

But I think probably the best course would be for us to hold those until you get to those items on the agenda.

And we're ready to proceed with the first item on your agenda with Mr. Braslaw.

DIRECTOR NURU: Okay. So I will ask Mr. Douglas to begin the cross-examination of Mr. Braslaw; is that correct?

MR. LEGG: Sure, though I think Mr. Braslaw may have some materials to present.

The first thing we're going to be talking about are revenue projections.

MR. BAKER: That's true. We introduced those -- I forgot. We introduced those on Monday. So maybe we'll have a little direct examination if you'd like on that, or can you just go to cross, whatever you prefer.

MR. LEGG: If you feel like direct examination would be helpful, go ahead. Otherwise --

MR. BAKER: I don't think we need to. Why don't you go ahead and ask your questions.

MR. LEGG: Okay, great.

JON BRASLAW,

having been previously duly sworn,
was examined and testified further
as hereinafter set forth:

CROSS-EXAMINATION BY MR. LEGG

MR. LEGG: So, Mr. Braslaw, you had shown that revenues had been going down fairly consistently in -- from all ratepayer sectors since December 2010, I believe. And you had kind of month-by-month analysis of those revenues, and it showed numbers coming down.

I had asked if that trend was continuing. Your exhibit showed us just through December 2012, and we're toward the end of April. I'd just like to be as up-to-date as we can.

MR. BRASLAW: We've updated the schedule. And the trend is basically consistent with what we saw through the end of December.

(Mr. Baker handing documents to Clerk)

MR. BAKER: Mr. Legg, would you like to substitute that for the prior or --

MR. LEGG: I'd like to do that rather than having an additional exhibit. It's all of the -- all of the information is the same as what was submitted before. We've just added -- added to it.

MR. BAKER: I think that was Exhibit 48. So what I've handed up will now become the replacement Exhibit 48.

(Exhibit 48 re-marked for identification)

MR. BRASLAW: With Exhibit 48, one of the things it pointed out is that we're looking at 12 months between January and December of 2012. It was lower than the 12 months of January to December of 2011, both residential and commercial sectors.

When you look at the updated exhibit and you use an April-to-March analysis for those two segments, you get the same -- you get the same result.

So through March, it didn't change that conclusion that the revenues actually in fact are lower in, you know, the latest 12 months than they were for 12 months previous.

MR. LEGG: All right. Thank you.

I'm interested on residential rates if you've done analysis to show the number of ratepayers that you're anticipating having a rate increase above the 24 percent that the average three 32-gallon containers will experience. Have you analyzed the kind of impact on different customer classes on the residential side?

MR. BRASLAW: We've done some analysis. It's our understanding that a very few, very small handful of customers may have an increase in excess of that. It would be primarily driven by customers that have premium services.

But generally there's customers -- because the bulk of the customers are in that typical 32-gallon category, that most of the customers, in fact, the rest of them kind of have increases that are somewhat below that to bring the average back down to the 21.25 percent.

MR. LEGG: Okay. Thanks.

I'd like to shift to apartment rates. And in the apartment area, that is not -- that would not be so much the case under the new rate structure with changes that you're proposing. So you in fact have a cap in the first year of this rate or in Rate Year 13?

MR. BRASLAW: That's correct. We have a cap proposed for Rate Year 14 of 25 percent. So the way we propose the cap is that, based on whatever the rate the customer has at the time of implementing the new rate, the new rate will be no more than 25 percent greater, including all premium charges.

MR. LEGG: And in Rate Year 15, you proposed increasing that cap or changing the cap so nobody would receive more than a 50 percent increase --

MR. BRASLAW: That's correct.

MR. LEGG: -- from what they're paying today in Rate Year 13?

MR. BRASLAW: Today, correct.

MR. LEGG: Have you done analysis about the amount of forgone revenue that you're assuming from the cap in Rate Year 14 and therefore that you would start if there was not migration to greater diversion service?

MR. BRASLAW: We have done analysis of that.

MR. LEGG: Do you have any of that analysis that you can share with us?

MR. BRASLAW: Yes, we do.

MR. LEGG: Fantastic.

While Mr. Baker is getting that ready, in reading the application, it seems that the assumption that the companies have is that, in the first year, even with the -- with the existing increase, there's going to be migration right away by some apartment customers to a higher level of diversion service.

And you actually have -- you've included in your B schedules kind of a recouping of that migration -- the --

MR. BRASLAW: Right, the initial migration.

MR. LEGG: -- the initial migration?

MR. BRASLAW: That's correct. One of the reasons that we believe that to be the case, in implementing proposed structure in the apartment segment, we have experience in putting it in place by virtue of having gone through it with our commercial customers. And we're actually in the process now of doing customer audits, of working with customers and really kind of positioning some of the larger customers -- or the ones that have larger increases -- positioning them so that they can go through and start to change their service and to mitigate some of the increase.

We believe that that is the best way to promote diversion. And again, we believe that some of that will take place from day one and that basically, kind of over the course of the year, we believe that that -- the migration that we've included, which is about 2 1/2 percent of the current base revenue, is reflective of what we expect to see on average.

MR. LEGG: So when we get to Rate Year 15, is it the company's assumption that there's going to be enough migration so that forgone revenue that you have because of the cap will be realized revenue?

Or do you think you'll have everybody -- is your assumption that everybody's going to be migrating, so you're going to be revenue neutral moving from Rate Year 14 to 15?

MR. BRASLAW: We believe that there will be continued migration. And, again, in the commercial sector, what we saw was, one we worked out the implementation process, that that migration accelerated and really continued through the second year into the third year.

At that point, we then ran into the recession and then ultimately mandatory. And those two things then made it much more difficult to figure out what was driven purely by migration and what were other factors.

But we saw, during the last cycle, the five-year cycle, that, again, the process of migration, in some ways it can certainly continue through. And there was kind of an acceleration towards the end of the first year, really, during the second and, to some extent, through into the third year.

So we've included in our assumptions -- you know, we expect that that will be the case. Again, this is a one-year rate. So those additional assumptions aren't explicitly included in the application.

MR. LEGG: But since the cap would come off, even though this is a one-year rate, essentially you're proposing changes in Year -- what would be Years 2 and 3 of this approved rate?

MR. BRASLAW: That's correct. But, again, our expectation is that that revenue will really be offset by additional migration that we anticipate, again, looking at the levels of service and kind of the -- what we see as some excess capacity in the apartment segment, we expect that that -- you know, that revenue really won't materialize to a large extent because people will continue to migrate.

And it's -- you know, it's our position and our company is committed to continue to work with our customers and to assist them in that process.

MR. LEGG: In our second public workshop before these hearings began, there were some people from -- representing apartment ratepayers who said that their buildings were actually quite different from commercial buildings and that they didn't really have control of what their tenants -- how their tenants were using the various receptacles and where they were putting recyclables and compostables.

And they maintained that, since there weren't building managers and -- the same kind of thing, that they wouldn't be able to achieve the same kind of levels of migration.

How does the company, in working with apartment buildings, believe that you will be able to mirror the experience that you see in the commercial sector?

MR. BRASLAW: I think that our experience, in talking to the apartment customers and apartment managers, is that there in fact are things that they can do. There are ways that they can motivate the tenants to change their behavior and to not only move to greater recycling and composting but ultimately to downsize, to kind of right-size their service.

In a conversation I was having with one of our auditors that's been out talking to apartment customers, looking at them, one of the things he's talked to people about doing is, rather than using the chutes for trash service and then having recycling and composting sit on their own, is that some buildings are basically closing their chutes off, and they're having their people bring the materials down.

If you have to bring down your materials, you're much more likely to bring down two bags, put one in recycling and one in trash, whereas, if you're going use a chute, it's more likely that you'll kind of put everything in one place, and then you won't see the migration from, again, trash to recycling.

So that's one of the techniques actually that I discussed with some of the -- some of the Recology staff.

There's other things that our outreach team does. We also work with the Department of the Environment and their outreach team to go in to educate tenants to work in the buildings.

So when we implement a composting program, for example, we go through and meet with the tenants. We explain how the program works; we explain why it's important, really work to, you know, encourage them to change that behavior.

It's also the case that some of the larger -- certainly the larger buildings have on-site managers. And it's our belief that they could probably make more effort to move in the right direction. And we're proposing this structure in part because we believe it includes economic incentives to motivate them to change their behavior.

And ultimately, from the company's perspective and in our discussions with the City, we believe that, in order to get to zero waste, we need to reach the apartments and we need to reach the tenants of the apartments because otherwise it's really going to be an extremely difficult task to get there without that buy-in.

So that's, again, one of the things that we see on the horizon for us is to work with the tenants and the tenant groups and really do a lot of education and outreach.

MR. LEGG: Thanks.

I assume this is being submitted as an exhibit [indicating]?

MR. BAKER: Yes. It will be Exhibit 54.

MR. OWEN: We'll mark the document as Exhibit 54 and receive it into evidence. The document is a single sheet with the title, "Impacts of Apartment Cap."

(Exhibit 54 marked for identification and admitted into evidence)

MR. LEGG: I'm going to take a look at this and may have questions, but Mr. Drew from the Department of Environment has further questions about migration.

CROSS-EXAMINATION BY MR. DREW

MR. DREW: Good afternoon. Actually, this is -- I wanted to be clear that we've -- you touched upon a lot of work that our department has done with Recology in the apartment sector. And I just want to be -- get a couple of things set sort of about what's happened and what's still to happen.

In Rate Years 11 and 12, our department and Recology rolled out about -- composting to 1500 apartment buildings and blue cart to the final 1,000 buildings.

Do you recall that we accomplished that in those two years?

MR. BRASLAW: Yes.

MR. DREW: And now, in the last six months -- actually, in the last year, we've been bringing about 40 apartment buildings their green cart, which are the final 6-or-so-hundred apartment buildings that needed a green cart. And we will finish that by the end of Rate Year 13; is that your recollection?

MR. BRASLAW: I believe so.

MR. DREW: That's our estimate.

MR. BRASLAW: The assumption we talked about, when we're going to finish, that's -- yes, that's consistent with those discussions, previous discussions.

MR. DREW: So my point there is that the equipment is in place and has been being put in place up to this point. So I guess that's -- to be clear about there's no more initiation. It's now -- the implementation is complete, I would say, from the equipment standpoint.

MR. BRASLAW: The placement, I would -- I would say that the placement of the containers or at least, you know, to some extent minimum service in those different segments in the composting segment is -- will be complete.

MR. DREW: Regarding the caps and the movement, sort of the movement as the caps come off, the numbers of buildings that will migrate their service in the direction of offsetting the increase that they would be facing, the numbers of buildings that we're talking about is -- in the 25 percent range, the first 25 percent cap, it looks like there were about 6,000 buildings that will be capped so that, at the end of that first year, there's some 6,000 buildings.

It's hard to say how many would -- the caps would come off because there would be adjustments. But even the 6,000, it sounds like you were just suggesting that all of those or even half of those, which would be from the 25 to the 50 percent, the next cap level up, just split it in half, call it 3,000, would be making that adjustment. That just seems hard to imagine happening, all 3,000 completely in that one year.

Is there -- can you tell us more about how we're going to get there?

MR. BRASLAW: Well, I wouldn't say, necessarily that all 3,000 would change because some of them may change more than -- some of them may change more than others, some of them may change less.

So there may be a lesser number but the same revenue impact because they make more dramatic change. So it's our expectation that behavior will change, but I -- we haven't been able to identify specifically, you know, this customer will do this or this customer will do that, and really wouldn't contend that all -- you know, 6,000 customers are going to change their behavior. Again, some of them will change more than others.

We've got some customers that have increases that are in excess of the 50 percent. A lot of the customers at the high end of the range have a lot of premium services. And it's also our expectation that there will be a lot of change in the premium services as they get used to the new system and the way that we propose those services.

Again, we've included that structural element intentionally because it's our -- you know, it's our hope that we can motivate people to change their behavior, bringing their materials to the curb, bring them to places that they're more accessible so that we can operate more efficiently.

And we anticipate that, with the increases in the premium services, which in some cases are higher than the increases in the volumetric service, that we'll start to see some of that behavioral change.

So, again, it's really not a 1-to-1. And I would agree with you that it's unlikely that all 6,000 customers that have increases in excess of 25 percent are going to change their behavior. Not all 6,000 will. But it's our expectation that, between the premium services, between the overall amounts of service volume that exists today, that there's enough room in the system to really bring down the overall -- you know, the overall revenue.

And, again, it's our expectation that we don't believe that the additional revenue from the caps will -- really will materialize. Now, it's over a couple of years. The number that you see in the exhibit, the 4 and a half million, is what would come in over a couple-year period.

One of the things that we did, we did an analysis and looked at the service minimums. And I actually had submitted something earlier that showed that 87 percent of our apartment customers have trash service in excess of the minimum.

And one of the reasons we talked about implementing the composting program and, to a large extent, as we saw increased recycling and composting in the apartment sector, there really wasn't the same trade-off that we had seen in the commercial sector with the reduction of trash.

So, in fact, what we saw was kind of an increase in overall volume as opposed to a trade between trash and recycling and composting.

So it's our expectation that the rest of that process is going to go on, which is now moving away from the trash service as they bring their volumes back down to what's really necessary to handle the material.

One of the other things we talked about the other day was the fact that overall waste generation and overall tonnage has been going down. And so we again believe that there's some excess capacity in the system. We looked at what would happen to the revenues if all apartment customers moved to the minimum. And that would have an impact of about $10 1/2 million for an annual basis.

So if tomorrow all the apartment customers moved to minimum service, that would take a considerable amount of revenue out of the system. Again, we don't expect that to happen. And it would be unrealistic to, you know, to propose that it would.

But what it does is it provides an indicator that there's a pretty significant amount of volume available for customers to essentially work off of their -- essentially to work off of their bills.

MR. DREW: I hear you on that one. And we -- it's our experience in the field of seeing that excess capacity. So I agree with the capacity part of the question or the analysis. The problem is the experience that we have in the -- working in the multi-family sector with landlords who are not always there as much as, say, a commercial business -- comparing it to the commercial migration, where you've got -- the landlords are not nearly as active as a commercial business owner is, and tenants are nowheres near as active as employees are when you get into that transition.

So I just want to temper the suggestion that it can all be absorbed with what I think is a reality out there. So...

MR. BRASLAW: And again, that's something that we've looked at the information; we have made an estimate. I've explained today our rationale. Because it's forward looking, we can't -- we can't say with any certainty what will happen.

Again, we know from, I think, from some experience in the commercial sector. And I think also, as I mentioned, we have proposed the structure, and because its structure includes economic incentives for that migration to take place, we have seen that that -- you know, economics can be a powerful motivator and that, for those landlords, those apartment owners that, you know, decide they want to do the right thing and modify their service, that they'll be able to enjoy the benefits of that.

MR. DREW: Okay. Thank you.

CROSS-EXAMINATION BY MR. LEGG

MR. LEGG: Mr. Braslaw, I would like you to just explain the numbers that are at the bottom of Exhibit 54.

MR. BRASLAW: The numbers at the bottom of Exhibit 54 -- let me see, make sure.

So the numbers at the bottom of Exhibit 54, the 15,648, that is the total new revenue that would be generated by all the apartment customers if the rate increase were implemented as proposed without any caps.

The number below that, the 11,077, which is a number that you can find on Schedule B.2, is the revenue that we anticipate will be generated by the apartment customers with the 25 percent cap in place.

So the difference between those two numbers is the 4,571, calculated as, theoretically, the additional revenue that would be realized with the removal of the caps, assuming that there was no migration. That 4571, it breaks down to about 2 -- I believe it's 2.75 million in the first year or just below 3 million and then the balance in 16.

So you can see, based on the distribution, that most of the customers are in the -- you know basically, in the really 20 to 50 percent range, 50, 60 percent range. So some of that additional revenue would happen in 2016. A larger portion of it would happen in 2015.

MR. LEGG: Okay. And of the $11 million that's in the rate application and on Schedule B.2, you're assuming that, in fact, because of migration, about 1.2, 1.3 million will not actually be realized?

MR. BRASLAW: That's correct.

MR. LEGG: Okay. That's all the questions I have on -- oh, and after -- one more on this, and then we have some questions about pay per set-out. And then all of those are kind of revenue and rate structure issues that the ratepayer advocate is going to have questions on.

But go ahead, Mr. Haley.

MR. HALEY: I just have a quick one.

CROSS-EXAMINATION BY MR. HALEY

MR. HALEY: In Schedule F1, for the collection companies, it shows 8,685 apartment customers. And the exhibit you just provided shows 8617. I'm curious if you can just resolve that discrepancy for us at one point.

MR. BRASLAW: Yeah, we'll look into it.

MR. LEGG: Mr. Drew?

MR. DREW: Yes.

CROSS-EXAMINATION BY MR. DREW

MR. DREW: Mr. Braslaw, on pay per set-out, shifting gears a bit, there's currently one group of routes operating under pay per set-out method; is that right?

MR. BRASLAW: That's correct.

MR. DREW: And that has just two Fan 3 routes and one organics route?

MR. BRASLAW: That's correct. So it's not really a full group the way that we've proposed to configure the groups going forward.

MR. DREW: But the experience from that operation is basically the basis of the proposal for the next three groups?

MR. BRASLAW: Correct.

MR. DREW: And just to be clear, those three groups each have Fan 3 collection routes and one organics route, so a total of nine collection routes --

Fan 3 collection, co-collection, and three organics routes?

MR. BRASLAW: That's correct.

MR. DREW: And the expenses in revenue reductions relating to this expansion are all in Exhibit 39, correct?

MR. BRASLAW: I believe so.

MR. DREW: That's -- yes. Are the expenses in the revenue reductions for the existing group that's already functioning, those are in the application already?

MR. BRASLAW: Those are in the application. If there's expenses that were incurred in Rate Year 2013, they would be reflected in Rate Year 2013.

The numbers that are included in Exhibit -- what is it? -- Exhibit 39 are reflective of what we anticipate in Rate Year 2014 to continue to operate -- to continue to operate the existing group plus to operate the additional groups that we proposed.

MR. DREW: And, yeah. There's not any expenses or revenue reductions that were not included in Rate Year 13; everything's in for the current operation?

MR. BRASLAW: Correct, everything that was incurred related to the current operation was included in Rate Year 13. There's no, as an example, there's no outreach related to the existing group that's in Rate Year 14 or in the rate application.

And I think I have it, but I do want to point out in Exhibit 39, the budget that's listed is the proposed budget for the additional -- for the additional routes. And to operate the existing route, it is changed from the numbers that are in the application.

We submitted this -- actually, we submitted this to provide some transparency because the numbers are distributed into various line items. But this shows the entire budget together.

MR. DREW: Do you know which schedules contain all the different revenues and expenses actually?

MR. BRASLAW: I have -- yes, I believe so. All the expenses ultimately roll up to Schedule D. Some of them may be included in other -- in other sub-schedules that support Schedule D. The revenue adjustment would -- appears in Schedule F.

MR. DREW: And actually, it's the same for Rate Year 14 going forward, we're using the same categories? We're using the same -- yes, the same categories?

MR. BRASLAW: That's correct.

MR. DREW: And with the exception of the leased truck hardware, the roll-out costs in the exhibit are amortized over three years; is that right?

MR. BRASLAW: That's correct. Even though the company will incur these costs during the first year, recognizing the fact that the rate is likely to last for more than one year, the company is proposing to amortize those costs over the three years.

So while there's basically a time value of money, that's something that the companies are prepared to absorb because we believe it's an important program and one that we want to encourage the adoption of.

MR. DREW: I hear you on that one. But some of these expenses will not be incurred again for well over three years, like the bins and the RFIT tags. It would seem like they have a useful life of well more than three years.

So I'm actually wondering why you wouldn't have a -- more like a 7-to-10-year even amortization for those items as well.

MR. BRASLAW: Those would not be considered capital items. And they're not considered for accounting purposes. And we wouldn't consider them capital. We look at those as more of supplies. They're -- whatever the math is; each one is 50 cents, 59 cents. It's not something that we would generally capitalize and amortize over a longer period.

MR. DREW: Well, what about a cart? A cart has got a seven-year amortization schedule.

MR. BRASLAW: Correct.

MR. DREW: And it's a piece of the cart.

MR. BRASLAW: Right. But -- and quite honestly, we're not sure how long the RFIT tags would last. We've already had some experience where we've gone out and done some replacements. And actually, in fact, we've included a 10 percent contingency.

And the reason is that we started to see some failures. We're not sure. And if we -- you know, if we end up with the experience where we've got to replace more, then we're going go out and do those replacements.

MR. DREW: So you're not at 10 percent yet failure rate, but you've had enough failure to make you wonder?

MR. BRASLAW: Correct.

MR. DREW: All right. And actually, last question, is there anything particular about having three groups for the next phase for a total of four versus a total of three, two more groups?

MR. BRASLAW: No, I think that having -- having three more groups, you know, having more groups provides you with better information.

The reason that we had proposed to include three more groups is that allows us to cover different areas of the City which have different customer configurations. Some areas have more apartments; some have more, you know, dense housing; some are more wide-open streets.

And so, it was really, you know, our desire to have a program that we can test in various place in the City so that we, in conjunction with City staff, can really evaluate the data and decide whether it makes sense to do this on a citywide basis. And we would have some experience in various neighborhoods.

MR. DREW: Okay.

Thanks, Mr. Legg. That's all for me.

MR. LEGG: All right. Then ratepayer advocate?

And are you going to have questions of Mr. Braslaw and the City staff?

MR. DEIBLER: Probably primarily Mr. Braslaw.

MR. LEGG: How about if we let Mr. Braslaw sit down where Mr. Drew is?

And then after these questions about rate structure, pay per set-out, and kind of revenues, David Assmann is here from the Department of Environment. And he has a couple of exhibits that you had requested that he's going to be producing. And I understand you also have some additional questions about the Department of Environment impound account?

MR. DEIBLER: Just one or two comments, quick comments.

MR. LEGG: Okay.

MR. DEIBLER: And also, the issue of scavenging, should I include that in this set of questions?

MR. LEGG: Yes, you should because it really relates -- I think it relates to revenue that's not realized.

MR. DEIBLER: Good afternoon, Mr. Nuru. Thank you.

CROSS-EXAMINATION BY MR. DEIBLER

MR. DEIBLER: Mr. Braslaw, I really just have one question on revenue projection, a pretty specific one.

Is it correct that Park Merced has been reclassified from apartment to commercial?

MR. BRASLAW: I believe that's correct.

MR. DEIBLER: Does that have any material impact? Maybe I should ask what impact it has on apartment revenues and on commercial revenues and does it have any material impact overall in terms of the application?

MR. BRASLAW: Well, the re-classification of a customer from apartment revenues to commercial revenues would serve to reduce one and basically replace those revenues on the other side.

On an overall basis, assuming that the rate was the same, it wouldn't have any impact because you'd be moving revenues from one to the other. As we discussed, we include all of the commercial revenues in our calculation.

I can't speak specifically to Park Merced's rates and whether that move included a change in their overall revenue level. We can -- we can get that information and provide it.

MR. DEIBLER: I appreciate that. It's really just a question because of the large number of accounts. And I just want to make sure that the benefit is, if it's reduced revenue, reduced service on the apartment side, that the benefit shows up on the commercial side.

I believe it does because I believe it's Schedule F.1 appears to show that change happening.

MR. BRASLAW: Right. And, again, we modified the service for the customer, and they went from apartment to commercial. Their revenue is included in the commercial revenues because all of the revenues that the company generates is included in the application somewhere.

We've worked with the -- you know, with the

City's staff and consultants to tie the revenues out to our financial statements and to our financial records.

MR. DEIBLER: Okay. Thank you. If I can turn to the question of scavenging and loss of revenue thereof. We had very eloquent comments from Mr. Haas the other day and also received quite a few comments about scavenging. I think just really a level of frankly public outrage about something so visible going on and seeing the impact of that and then seeing a rate increase being requested and having trouble connecting the dots.

Do you have an estimate of what that loss is per year, ballpark, to Recology in terms of revenue?

MR. BRASLAW: We do not. And I've talked to internally with our folks, and, you know, the kind of answer was, "We don't know what we don't know." We don't know what we don't get from these -- from the bins.

We have seen, you know, an increase in buy-back volumes, but it tends to go up and down. And I don't believe we see most of the material that is scavenged. But we don't really have an estimate.

So I heard from Mr. Haas that he had an estimated number, but that's not something that the company has generated or that I've been made aware of.

MR. DEIBLER: Okay. I think he mentioned $6 million a year and stated that that was a figure he had received from Recology or a staff person. I don't know who that was.

I also heard an estimate of a range from 5- to 10 million, and that was attributed anecdotally also to a Recology person -- So anyway, a sizeable amount of money perhaps.

MR. BRASLAW: Perhaps.

MR. DEIBLER: Do you have any thoughts on the share of, if you would, casual scavenging that goes on versus organized? And really interested in focusing on the organized part, we heard about the mobile buy-backs the other day -- that sort of activity. Do you have any sense at all, is that the bulk of the loss or --

MR. BRASLAW: I do not. my understanding is the mobile buy-backs are organized to buy material from scavengers. So I don't know, then, how you would categorize somebody going through a bin, whether they sell it to a mobile buy-back or they sell it -- you know, they bring it down to the pier and they sell it to us.

Again, I don't have any information that would categorize that activity.

MR. DEIBLER: Do you have a sense of whether the mobile buy-backs are exclusively in the Downtown area, Civic Center area? Are they in other parts of the City?

MR. BRASLAW: To my knowledge, they are primarily in Civic Center, Downtown area. But they may be in other areas also. I don't have detailed knowledge about that activity.

MR. DEIBLER: Do you feel it would be useful to try to get a handle on that loss of revenue? I don't know even to begin to think about how you would do that or how the City staff would do it, to understand it better.

MR. BRASLAW: I think it's a difficult problem, as you stated. It's something that people in the City -- customers, residents -- have a lot of concern about.

It's a problem that -- companies worked with the City, various agencies, various folks to try to address the issue. We haven't tried to do any kinds of estimates or any kinds of analysis of loss. And we haven't really been asked to do so.

MR. DEIBLER: Okay. Just from the point of view of technically -- and a public commenter asked, if we can put a person on the moon, why can't we keep recyclables from being stolen out of containers?

Are there technical, technological solutions, ideas? I think I heard one that the public cans, if I'm correct, the liners will make it more difficult? I may not have that quite clear -- more difficult to scavenge from the public containers? Are there other types of solutions?

MR. BRASLAW: I don't believe the liners in the public cans are related to the issue. We encourage our customers to put their carts out first thing in the morning so that they come out, put out their cart, put out their bin; the truck comes by, disposes of the material. There's less chance of it to be picked through and stolen.

So that's one of the things that we do. Some customers use locks, so we provide locks in certain situations. They are difficult to -- it creates some impacts on efficiency. And there's additional charges, associated with them. And ultimately they -- you know, to a large extent they haven't really proven to be effective.

MR. DEIBLER: Okay. Thank you. Are you aware of any other cities that are finding innovative ways to deal with this? This isn't an issue just specific to San Francisco, obviously. All large cities are facing it, I'm sure.

MR. BRASLAW: I am not. I haven't looked into that.

MR. DEIBLER: Maybe just a comment: If there is an interest in looking at greater enforcement of the mobile buy-back, the organized type of activity there's been discussion about, questions about that, if that is in fact centered primarily in the Civic Center, Downtown area, then the cost of that enforcement -- there will be some added cost -- will have to be paid for from somewhere.

Given its location, I would hope it's not the residential or apartment rates.

MR. LEGG: I'd like to comment on a couple of things that you've said.

I mean, the City is concerned about particularly the mobile buy-back issue. And this kind of poaching of recyclable materials, if it's taken out of bins for Recology, it's against the law. And so those who are supposed to enforce it are the police department and the district attorney.

And we've talked from time to time with them, and there have been, as Mr. Haas said, some actions, not necessarily sustained. And we here really don't have control over what the police priorities are.

And I have no idea what range of issues and investigations and prevention that they're doing, so I unfortunately don't -- I really don't think, other than City departments, Recology, perhaps, active citizens like Mr. Haas, I think the best that we can do is continue to put -- encourage the police to enforce those laws. But there are all kinds of laws that we -- you know, I think all of us would like to see enforced more than maybe they are.

You had talked about the liners. And that's something that I mentioned in my testimony about the new City cans. The new City cans that we are talking about procuring are more difficult to break into and remove the liners. They are also going to have recycling tops, though, which are designed for people to scavenge from and actually remove those articles so they get diverted from landfill.

And it's not illegal to take things out of those public cans. It's not materials that are owned by anybody. We don't want people going into the liners because it tends to spread litter around the area. And right now it damages the doors of the existing public litter cans. So it's a maintenance expense that we have to bear.

And I'd like to emphasize we really don't -- it's really very difficult to get an idea about the value of the materials that are being poached from

Recology's containers. I've heard figures as low as 2 to 4 million, which is real money. But even if it's, you know, for every $3 million worth, on the rate base, it's about 1 percent.

And we're -- you know, we're looking at a revenue increase need in this proposed application of 21 percent. So even if we had -- in a perfect world, if all of that scavenging stopped, we would still need -- you know, we would still need a 20 percent, 19 1/2 percent rate increase, so -- even if you're taking the largest guesses as to what the value would be.

MR. DEIBLER: Thank you, Mr. Legg. I appreciate your comments. And I understand the difficulties in the area because, from the public's perspective, it's maybe one of how do you convey the message, whatever the message is. If the message is, "We can't really do anything about it, and here's what it looks like in the relative overall scheme of things; it's this much money relative to what needs to be collected through the rates," that -- I think that would help, to have that communicated because right now there's just this very viceral, "This is making me angry, and they're asking me to pay more," end of story. So just that connection being made.

Thank you.

I'd like to turn to pay per set-out, if I may, for just a few quick clarifications.

First of all, this is Exhibit 39, I believe?

MR. BRASLAW: Correct.

MR. DEIBLER: Thanks. The four groups, what portion of the population does that cover, roughly, covered in the --

MR. BRASLAW: I have the exhibit.

I don't know offhand. I'd have to go through and look at the total to do that comparison. Basically, the proposal includes about -- essentially about 15,000 customers. So that would include approximately 10 percent.

MR. DEIBLER: And that's entirely residential that are participating? Or are apartments participating also or small apartment complexes classified as residential?

MR. BRASLAW: It's customers that bring their bins to the curb. So apartment customers could participate. It's not -- at this point, it's not been our experience that they did participate.

And, again, we're requiring that bins be brought to the curb in order to participate in the program.

MR. DEIBLER: Do you have any sense of whether it's primarily, you know, one unit, single-family homes that are participating, or are there small apartment complexes -- you know, four-plexes, two-plexes, three-plexes, if you will, that are participating?

MR. BRASLAW: I don't have specific knowledge of the make-up of the customers that are participating. And the routes that -- where the program is operating now and in the routes that we proposed, there are a mix of customers. And, again, any customer that can bring their bins to the curb is eligible to participate.

MR. DEIBLER: So would it be accurate to say that, if the program went citywide or had broad applicability, that you would hope that it would be a significant number of those smaller complexes also participating that bring materials to the curb?

MR. BRASLAW: That's correct. And it may be an additional motivation to, you know, bring them to -- to bring their carts to the curb, which we would prefer because it improves our own efficiency.

MR. DEIBLER: One last question on that, and that is, are you seeing any -- maybe it's too early to know. But in the pilot, are you seeing any material effects on contamination or cross-contamination or other changes of behavior because of putting out the black bin less frequently?

MR. BRASLAW: We've seen some minor changes in the overall tonnage, a little bit of reduction in the trash, and a little bit of improvement in recycling. Not -- we have not seen a significant change to this point. And, based on our testing and auditing, we haven't seen a significant increase in contamination.

MR. DEIBLER: Thank you. I hope the program is successful. I think it's an exciting potential addition to the City process and also to helping the rate structure changes take shape. Thank you.

Speaking of rate structure. I'd like to ask you a few questions on that. These aren't specific to an exhibit. They're a little bit more general.

So Recology has quite a bit of experience on the commercial side. And some of the questions you've had this morning are what are the parallels on the -- or lack thereof in terms of applying some of these changes in rates.

When you first modified commercial structure, going back to 2006-2007, did you have goal in mind of where you hoped the rate structure would end up or were you making just initial incremental changes?

MR. BRASLAW: Actually, I was only peripherally involved in the implementation of the rate structure.

I was involved in some of the discussions of the development of that structure. But that was not in the role that I'm in now, so I'm really not the best person to speak to that question.

MR. DEIBLER: Okay. Maybe we could come back to that. Is there someone that would be more appropriate?

MR. BRASLAW: I believe Maurice Quillen would be more appropriate. He was here during the implementation.

MR. DEIBLER: Maybe he could join you. Is there an extra seat, extra seat there?

DIRECTOR NURU: We can make one available.

MR. DEIBLER: Sorry, Robert.

MR. HALEY: No problem.

MAURICE QUILLEN,

previously duly sworn, was examined
and testified further as hereinafter
set forth:

CROSS-EXAMINATION BY MR. DEIBLER

MR. DEIBLER: Good afternoon, Mr. Quillen.

Let me just say I'm not trying to play gotcha here. I'm very supportive of the rate structure changes, and I want to sort of understand the bigger picture context towards helping the public understand the context of the changes and where they're headed.

So that's what this is about.

MR. QUILLEN: Okay.

MR. DEIBLER: So you were involved in the commercial rate structure development; is that correct?

MR. QUILLEN: Yes, I was.

MR. DEIBLER: Thanks. And again, I guess the same question, when you implemented the changes, you know, looking very similarly to what you're looking at now, a fixed charge for base services, base charge, if you will, and having incentives and having in that case the credits back, were you thinking of that structure as being an end point in itself? Were you thinking of it -- did you have a trajectory in mind for where you wanted the structure to end up?

MR. QUILLEN: When we first looked at what was going to represent the potential commercial rate structure and, you know, making the transition from charging only for refuse and providing the incentive basis, the company was thinking that we would meter the implementation because we didn't initially believe that we could deal with all of our commercial customers at once.

And through the discussions leading up to the rate and the actual rate process, it became a citywide implementation.

So the trajectory was -- what the company had looked at was fundamentally different than where we ended up. So we ended up looking at a citywide implementation with not much in the way of projections other than for migration.

So in this particular case, we're actually trying to look at migration projections because we understand there will be a citywide implementation for the apartments.

MR. DEIBLER: Got it. Given what you know now, six years later on the commercial side, I believe that you're looking at increasing fixed charge, right?

MR. QUILLEN: Right.

MR. DEIBLER: Are you anticipating other changes or is that -- are we at an end point now in terms of conceptually what a structure looks like on the commercial side?

MR. QUILLEN: It's our intention to move towards an actual fee for cost for service. So at this point, we'll be moving the fixed charges up. We're going to be moving the recycling discount up to 85 percent, but then conversely disallowing the first 10 percent. So we're continuing to move that rate structure towards fee for service.

MR. DEIBLER: How does the commercial

experience -- maybe we're switching to Mr. Braslaw now; I'm not sure.

How does the commercial experience and experience with six years of having that rate structure in place, how did that inform your thinking about the residential and apartment changes?

MR. BRASLAW: I think that the experience with the commercial sector led us to look at that structure as a viable structure or for apartments because the apartment customer segment has a lot of variability. There's lots of different, you know, sizes of containers, numbers of containers, frequencies of service.

And so we felt that we needed a structure that would allow people to enjoy the benefit of moving to greater diversion service. It's similar to the commercial structure in that respect, that commercial buildings varied widely, that there's, you know, probably thousands of configurations of levels and types of services in commercial buildings; and likewise, it's the same thing in apartments.

So we believe that going towards that structure would provide the appropriate incentives to begin to move people's behavior.

MR. DEIBLER: Thank you. In developing the actual components of the rate structure in terms of the changes, the base $5, the $2 components for the blue and the green cart, 32-gallon capacity, did you model different options?

Did you look at what -- "Gee, what if we make this $5?" or "What if we make it $1?" or "What if we" -- what if it is graduated or scaled back based on volume -- you know, it's $2 for the first 32, and it's a dollar for each additional 32, those types of options? Did you look at those?

MR. BRASLAW: We did. And this is the residential structure. We created a model that allowed us to modify each of those variables to analyze what type of impact it would have on revenue.

We found that those modifications didn't have a significant impact necessarily on revenue, depending on which element we were talking about. But we wanted to balance the rate impact with the idea that it was appropriate to include a charge on the blue and the green bins and, at the same time, not -- you know, we didn't want to create an incentive to move away from the recycling and the composting service in the residential sector.

We -- you know, we chose to propose the structure that we did because the residential sector has a much narrower band of types of service, of range of sizes of container, of, you know, frequency of service. That's a much narrower band.

So rather than having something that was really driven by, you know, changing discounts, we wanted to put the elements of the rate in place that we think were more reflective of some of the overall elements of our cost structure, including costs for recycling and composting and including -- including a base charge.

You heard from Mr. Browzy [phonetic] that a good portion of our expenses are fixed and that base charge represented a -- you know, basically a movement to reflect that in the rates.

MR. DEIBLER: In terms of the residential and the apartment rate structures, if the request is approved as proposed, do you have an end point in mind for what those structures will look like, and particularly, I guess, the balance of costs of service -- which is a difficult one to balance -- costs of service and incentives for diversion?

MR. BRASLAW: Right. And I think that that -- in the proposal we've made, you know, was reflective of an attempt to balance those things and to recognize where we are and where we began with the program, that, in the beginning of the program, we believe it was appropriate to have rate structures that had a lot of incentive, that really incentivized people to embrace the program, to allow it to gain some traction as the program started to mature.

And now we're somewhere in that spectrum, kind of in the middle of that process, that we're proposing changes that still provide those incentives but also are now moving to reflect the changing composition of the service. I think it's logical -- it would be logical to conclude that, if the black bin continued to shrink and you still wanted to fund the overall program, that you would have to either put more of the cost on the blue and the green or put more on the fixed charge or some combination of both.

We've not gone through and done an analysis and said, you know, we want to start here so that tomorrow we can go there.

We recognize that tomorrow the rate will probably look somewhat different than it looks today. And our expectation is it's somewhere still along that spectrum.

MR. DEIBLER: Okay. Thank you. I have no further questions at this time. Thanks for your time.

MR. LEGG: Mr. Assmann?

DAVID ASSMAN,

previously duly sworn, was examined and testified further as hereinafter set forth:

MR. ASSMANN: Yes. I have two exhibits to introduce. One is a memo that was written to our Commission in 2007 from our then-director Jared Blumenfeld which had guidelines for the use of impound account funds and based on five sets of criteria.

I'd like to introduce that as an exhibit.

The other exhibit I would like to -- one more copy. The other exhibit I would like to introduce is a chart. And it's a running total that we keep of tons that have been sent to Altamont. And it shows when we expect to reach our landfill contract capacity, which currently is at the end of the month of January 2016. And we keep this running total. And here is the chart. I'd like to introduce that as an exhibit as well.

MR. DEIBLER: I just have one of two questions on each of the exhibits, if I might, Mr. Assmann.

EXAMINATION BY MR. DEIBLER

MR. DEIBLER: Thank you, first of all, for introducing them.

On the 2007 memo, on the first page, there were five reference materials cited. I want to ask whether Item 2, which is a memo from Deputy City Attorney, several of them, on the use of the refuse rate proceeds, and No. 5, which is a memo from Mr. Owen regarding also -- this is specific to Environmental Justice projects -- whether those two opinions are available on the website or have other ready public access?

MR. ASSMANN: The first one is not. It was a confidential memo designed for the Department. So it's not available on the website. Actually, neither of them at this point are available on the website.

MR. DEIBLER: Is it possible to make anything that's not confidential available?

MR. ASSMANN: Yes, it is possible to make the second one, which is not confidential, available.

MR. DEIBLER: And I guess I'd request also -- the first one is 2001. Is there really a need to keep that confidential? Perhaps there is. Having not seen it, I can't comment on it.

MR. ASSMANN: What I can do is go back and review it with the Director and see whether there is reason to keep it confidential or not.

MR. DEIBLER: Thank you. The reason I ask this is there's really two issues that you've heard quite a bit about on the impound account. One is are these programs reasonable programs to be funded from the impound account? And I think it's clear that they are, in my opinion, and that other communities all over California do so. So that's one item.

The second item is the connection back to the 1932 ordinance, and what is the, you know, the legal side in terms of interpreting that refuse rate revenues can be used for these purposes. So the more transparency there could be about that, I think it might maybe make everyone's life easier.

MR. ASSMANN: We can review the other one. The second one we can make available and introduce as an exhibit.

MR. DEIBLER: Thank you very much. One quick similar request on the second exhibit item, I was just wondering if this is, or, if not, can it be made available on the website so, again, people can readily see what is the -- what's the current likely date?

MR. ASSMANN: Certainly that can be done. Obviously we update it monthly to make sure that we know when the end point is likely to come.

MR. DEIBLER: Excellent, thank you very much.

MR. OWEN: We will mark the first document as Exhibit 55 and receive it into evidence. The document is three sheets bearing title, "Guidelines For Use Of

Impound Account Funds."

We will mark the second document as Exhibit 56 and receive it into evidence. The document is one page with the title "Tons Sent to Altamont."

(Exhibits 55 and 56 marked for identification and admitted into evidence)

MR. BAKER: Are there any extra copies of those?

DIRECTOR NURU: There should be.

MR. ASSMANN: I brought five copies, so -- actually, I have a sixth one. I actually have my own.

MR. LEGG: Mr. Nuru, next on the agenda is a continuation on the discussion of composting tip fees. So we would like to have Mr. Yamamoto come back up.

You can sit or stand, whatever your pleasure is.

And Jack Macy from the Department of Environment has some questions.

MR. BAKER: In addition to that, in response to questions that were asked on Monday, we have some additional direct testimony to provide and an exhibit. So I can either hold on that or go ahead and do that first.

MR. LEGG: I think we should start with the direct testimony and the exhibit.

MR. BAKER: All right.

There were some questions asked of Mr. Yamamoto regarding prices charged by Recology to its other customers that deliver organics to its three composting facilities. And Mr. Yamamoto gathered some information about that, which is summarized in an exhibit, so I'll hand that.

(Mr. Baker handing documents to Clerk.)

MR. OWEN: We'll mark the document as Exhibit 57 and receive it into evidence. The document is a single sheet with the title "Recology Organics Group Customers, Material Types, and Rates."

(Exhibit 57 marked for identification and admitted into evidence)

DIRECT EXAMINATION BY MR. BAKER

MR. BAKER: Do you have a copy?

MR. YAMAMOTO: Yes, I do.

MR. BAKER: Does Exhibit 57 set forth in summary form information about customers of the three composting facilities operated by Recology?

MR. YAMAMOTO: It does provide that summary form.

MR. BAKER: And it divides the customers into three categories, customers with a large percentage of food waste, customers with a small to modest percentage of food waste, and customers with all green waste and no food waste.

Can you explain generally what those three categories mean?

MR. YAMAMOTO: Certainly. The customers with a large percentage of food waste are generally commercial customers. So the food waste produced by those customers are either, you know, derived from restaurants, retail stores such as Safeway, potentially Costco, and in general, just high content, high percentage of food waste.

Customers with a smaller to modest percentage of food waste, those would be residential programs that have the capability of introducing residential food scraps, as well as some commercial entities, and then finally customers with all green waste -- I think that's self explanatory.

MR. BAKER: So which category or categories does San Francisco fit in?

MR. YAMAMOTO: That is the large percentage of food waste.

MR. BAKER: What is the range of prices that's charged to those particular customers?

MR. YAMAMOTO: Anywhere from 45 to over $50 per ton.

MR. BAKER: The number of tons per year that fall into that category you have here is 198,000 tons?

MR. YAMAMOTO: That is correct.

MR. BAKER: And San Francisco's charge or tip fee is what?

MR. YAMAMOTO: $49.19 per ton.

MR. BAKER: So focusing on the customers in the category, San Francisco plus six other customers, why does the price vary?

MR. YAMAMOTO: It depends on market conditions, the concentration of food waste within the overall feedstock. Depending on the markets we hope to enter, that can play into their price variability as well.

MR. BAKER: And then the next category is customers with a small to modest percentage of food waste.

Can you give us some sense of what the percentages would be there?

MR. YAMAMOTO: That can range anywhere from 2 percent to 15 percent, thereabouts.

MR. BAKER: 2 to 15 percent of food waste?

MR. YAMAMOTO: Of food waste, yes.

MR. BAKER: And then finally you have a category of 11 customers, all green waste and no food waste. You charge customers that have a larger percentages of food waste more than customers who have less or no food waste; is that right?

MR. YAMAMOTO: Yes, generally that's correct.

MR. BAKER: You talked a little bit about that on Monday. But can you explain again why that's the case?

MR. YAMAMOTO: Certainly. It's the commercial food waste that is the most challenging element of our feedstock that we manage. It really drives all the infrastructure and the management practices that we developed in the past 15 years or so, over 15 years.

So from the beginning of the process where we receive the material, we go through an extra step of vetting that material with green waste that can absorb the leachate that's produced initially from that feedstock. We go through process of contamination removal. We have a low-speed, high-impact grinder that opens the bags that are fairly prominent within that type of feedstock so that it we can separate the plastic, the film plastic, from the organics material.

Once that's completed, we then recombine that commercial material with green waste in order to achieve the right voracity. It goes on. As I mentioned before, there are probably at least a couple of dozen best management practices that have been developed specifically for commercial food waste.

MR. BAKER: Mr. Legg, at the last hearing, you asked for tip fees charged to other customers. And the company was reluctant to list each customer by name and each tip fee. Some are public, many are not.

However, if the City wishes to get more detailed information on that and wishes to review the contracts, we can make arrangements for someone to do that, to verify some of these numbers if you'd like.

MR. LEGG: Thank you.

MR. BAKER: Mr. Yamamoto, there were also some questions asked on Monday about capital investment that is planned at the Grover composting facility. And I thought it would be useful to explain that in a little more detail.

With regard to Grover, can you tell us when Recology acquired that facility and the circumstances?

MR. YAMAMOTO: Early in 2010. And the site at that time was primarily a green waste operation. Although they did have the entitlements and permits to accept commercial food waste, they were accepting small amounts of food scraps in their feedstock, but primarily green waste operation.

MR. BAKER: Currently, a portion at least of San Francisco's food waste goes to Grover, does it not?

MR. YAMAMOTO: That is correct.

MR. BAKER: So a question was asked on Monday as to how that is the case since the capital improvements that you're talking about had not yet begun. So can you explain that, please?

MR. YAMAMOTO: Sure. When we acquired the Grover operation, we recognized that they had developed processes to manage contamination in their feedstock in a fairly comprehensive way.

They also employ a different process called the loop key method to manage their material, which is a much more labor intensive process but highly effective. Our desire was to introduce a commercial food waste into that site, knowing that they had a higher percentage of green waste, which is very effective and very helpful in managing commercial composting processes.

We evaluated that technique and that process over time. As I'd mentioned before, the quality of the material has degraded. The value of the material that we're able to command on the market has been reduced. And the shear volume of the material as well has driven the need to add additional infrastructure itself.

So we looked at the best practices from both sites, both the Grover operation as well as one of our larger sites that we operated prior to that -- Jepson Prairie organics -- and combined the different technologies to combine the system that we thought made sense for that specific area and that specific site.

MR. BAKER: Are any regulatory factors at play in deciding whether to make these capital improvements?

MR. YAMAMOTO: There definitely are. The San Joaquin Air Pollution Control District passed a Regulation 4566 to control air emissions. Although we're in the process of developing infrastructure for that, we have not yet implemented those practices yet. But that cost is anticipated to be about $650,000 a year, annually.

That involves the upgrade of the receiving facility to manage the volume of feedstock, incorporates a technique to make sure that the composting process is properly managed in terms of moisture content, and then finally, it employs a pseudo-biofilter on the windrowing area where we make sure leachate is filtered from the finished product. The Central Valley is also working on waste discharge requirements for composting facilities. We anticipate some significant infrastructure improvements necessitated by that as well.

MR. BAKER: On Monday, I think you indicated that the amount that's anticipated in additional capital investment at the Grover site was in the neighborhood of $4 million; is that right?

MR. YAMAMOTO: 4.4 million, yes.

MR. BAKER: Can you give us an estimate of how much of that expenditure San Francisco will, in effect, be asked to bear through your pricing?

MR. YAMAMOTO: San Francisco's revenue for the overall -- for the combined facilities that we currently operate is about 33 percent. It's about a third of the revenue that we generate by our facilities.

MR. BAKER: So how would that translate, then, into an answer to my question?

MR. YAMAMOTO: Hmm. Well, it depends on how you look at the financials, but approximately a third.

MR. BAKER: In other words, to the extent that the cost of these capital improvements are paid through revenue from tip fees, Recology -- I mean, San Francisco accounts for about a third of all revenues into these composting facilities?

MR. YAMAMOTO: That's correct.

MR. BAKER: And lastly, the question asked, I think, by Mr. Deibler, about if there's a way to translate a ton of material in to a ton of material out or a cubic yard of material out, can you tell us how you would estimate that?

MR. YAMAMOTO: The rule of thumb, what the industry has used is one ton of inbound material produces about one yard of finished product. So that's how we receive material, by ton, and that's how we sell material, by yard.

MR. BAKER: When you say "by yard," you mean one cubic yard?

MR. YAMAMTO: One cubic yard, yes.

MR. BAKER: Thank you.

I don't have anything else.

MR. LEGG: Can I just ask one quick question before Mr. Macy starts?

The Recology Organics Group, is that -- is what's encompassed on this exhibit, how many companies are in that group?

MR. YAMAMOTO: Three operations.

MR. LEGG: So it's the -- it's just the ones where San Francisco sends waste -- sends green materials?

MR. YAMAMOTO: Organics, green waste, yes.

MR. LEGG: Okay. Thank you.

THE CLERK: Please state your name and position for the record.

MR. MACY: Jack Macy, Commercial Zero Waste Coordinator, Department of the Environment.

(Mr. Macy sworn)

MR. MACY: I want to start with introducing three exhibits at this time.

And the first one is a copy of the contract between the City of Berkeley and Grover Environmental Products. That was executed in July 2010.

And the second one is a copy of a contract between City of Berkeley and Recology Grover, executed in December 2012, a contract amendment.

And the third one is a copy of an agreement, portions of an agreement between the South Bayside Waste Management Authority, Re-Think Waste, and Recology Grover Environmental Products.

Good afternoon.

MR. BAKER: Could we have we have a copy, please?

MR. LEGG: I'm going to have the Clerk go and make -- how many copies did you bring?

MR. MACY: Five.

MR. LEGG: Would you make three more?

MR. BAKER: Is there a copy I can look at while the questions are being asked?

MR. LEGG: Why don't we have -- I sent one set for copies, so there are four left.

We'll give you one in just a moment. They're being three-hole punched as we speak.

MR. BAKER: Thank you.

MR. OWEN: In the meantime, we'll mark the first document as Exhibit 58 and receive it into evidence. It's approximately 12 sheets. We'll mark the second document as Exhibit 59. It is approximately six or seven sheets.

We'll mark the third document as Exhibit 60, receive it into evidence -- as well as 59. Exhibit 60 is a document of approximately six sheets.

(Exhibits 58, 59 and 60 marked for identification, admitted in evidence)

CROSS-EXAMINATION BY MR. MACY

MR. MACY: Okay. Mr. Yamamoto, are you familiar with the Rate Application Recology San Francisco Schedule J, Proposed Rate Per Ton for Transportation of Compostables?

MR. YAMAMOTO: Oh, yes.

MR. MACY: That's in the rate application. Okay. So it's in record. So there's a proposal for $48.64 per ton for the compostables for Recology Companies.

So I just gave you Exhibit 58. It's a copy of the contract between the City of Berkeley and Grover originally executed July 20, 2010.

And then 59 is the amendment to that contract, which was executed in December 2012 for a two-year extension. And in there, it shows the two-year extension goes from July 2013 to July 2015. Is that --

do you see that; is that correct?

MR. YAMAMOTO: Yes.

MR. MACY: So the original contract, Berkeley contract, has an Exhibit B that sets the processing fee for organic -- quote, "organic waste," at $20 per ton that was starting in August 2010 to June 30, 2011 and increases each subsequent year by a COLA based on the San Francisco Bay Area Consumer Price Index and a fuel escalator. So that is shown, as I said, in Exhibit -- $20 per ton, does that look --

MR. YAMAMOTO: Yes.

MR. MACY: So and then there's been this -- the contract extension doesn't change the terms of payment as far as we can tell.

So and now we have this new exhibit from you with different customers. So do you know what the current tipping fee is being charged in Berkeley?

MR. YAMAMOTO: I believe it's $21.04.

MR. MACY: Okay.

MR. YAMAMOTO: Per ton.

MR. MACY: And that is -- okay.

I actually was -- I've been told by the City of Berkeley it's currently 36.20, which would fall in between what -- your customer with small to modest percent of food waste.

And you actually -- we'll just move on to the -- to the third -- to Exhibit 60, which is the agreement between South Bayside Waste Management Authority and Recology Grover Environmental Products. So in this, there's an Exhibit C, which is on Page 16, that has a table of processing rates. And those rates show a rate for organic materials, commingled plant material and food scraps of $32 a ton and segregated food scraps, $44 a ton. And there is -- it increases that -- this contract has a commencing date of January 2012 -- I'm sorry, January 2011. And then each subsequent year commencing January 2012, it increases -- rates increase by 90 percent of the All-Consumer -- All Urban Consumer's Index CPI-U. And there's also a discount of up to 5 percent on -- rather 2.5.

Do you know what Recology is charging SBWMA for material?

MR. YAMAMOTO: Let's see. I believe it's $45.66 a ton.

MR. MACY: They actually have two rates on here. So the $45 would be for segregated food scraps?

MR. YAMAMOTO: That's for the higher -- that's the higher rate.

MR. MACY: Right.

MR. YAMAMOTO: The current rate for the bulk of the material we receive, I don't have a number at this point.

MR. MACY: So this does show two different rates.

MR. YAMAMOTO: Mm-hmm.

MR. MACY: At the lower rate, I would be adding the CPI-U of 90 percent of 2012. And again, for 2013, looks like it would be about $34 a ton.

Does that sound correct?

MR. YAMAMOTO: That sound like a good approximation.

MR. MACY: So I will point out that according to -- we do have information from South Bayside -- it's not in here -- that they're currently being charged just at the lower rate for the materials, which would fall into your -- on your new exhibit -- I don't have the number of that, the one just handed me.

Must be 57.

So Exhibit 57 shows you have a customer with small to modest percent food waste. And looks like that's what Berkeley and SBWMA fall under. Does that sound correct?

MR. YAMAMOTO: Initially, the Berkeley contract, which was bid under the Grover management, was pure green waste. And through the evolution of their programs there, they've incorporated food scraps.

MR. MACY: In the last hearing, you submitted Exhibit 43, Recology Organics Infrastructure and Operations that provided a lot of interesting information about the operations.

And you do list food to -- food to total ratios. And I take it that's the percent of food in the total feedstock of your sources?

MR. YAMAMOTO: Correct.

MR. MACY: And in there, you've indicated that Berkeley is at about approximately 15 percent, and SBWMA is approximately 35 percent compared to San Francisco at 75 to 90 percent, based on visual observation and with this -- the sample photos that you also provided in Exhibit 44.

So a clarifying question, all the material that you're getting from San Francisco, from the San Francisco collection companies, is that -- is this 75 to 90 percent food, is it your understanding that that is the average of all the material coming from San Francisco?

MR. YAMAMOTO: That's an approximation.

MR. MACY: So you testified at the last hearing and you just testified now about the additional challenges for processing food. And your exhibits detail a lot of the additional steps.

Do you have -- and so one question I have is, all the material that San Francisco comes in, the mix of residential yard trimmings and residential food and commercial food, the average being very high in food percent, all that material is essentially processed the same way, is that correct, or is some of it processed differently?

MR. YAMAMOTO: We now combine all the green waste, specifically at our Grover operation, with the commercial food waste. We have to do that to be able to convey the material through our processing equipment to ensure that we absorb the leachate liquids produced by commercial food waste and just to make sure we maintain the voracity we need to ensure anaerobic compost processing.

MR. MACY: So all the material from San Francisco is essentially processed the same way -- you've got a high percentage of food mixed in with other materials, such as you've got plant material from San Francisco, It all has to go through --

MR. YAMAMOTO: It's all commingled in a single process.

MR. MACY: And with a customer such as Berkeley and SBWMA that have a small to modest percentage of food waste, can you just clarify what are the key differences of how that material is handled differently? And I realized that we touched on this already, but just what would be the -- what would you summarize as the key differences in how the San Francisco material is processed than customers like Berkeley and SBWMA that fall within your small-to-modest percent of food?

MR. YAMAMOTO: In general, the commercial food waste is run across a sorter line with a higher number of sorters. I mentioned that had we also run that material through a low-speed high-impact shredder to open up the bags so that we have access to the organics. So the commercial food waste is handled differently.

In terms of the feedstock that has a majority of green waste, fewer sorters, a less intensive process initially. But ultimately at the end of the day, because we need to incorporate that green waste with the food waste, at a certain point in time it's all blended together and processed together.

MR. MACY: Do you have any estimate of sort of what the difference is, either percentwise or dollars per ton, in the cost to process customers with a small-to-modest percent of food versus customers that have a high percent of food like San Francisco?

MR. YAMAMOTO: We do have different rates for predominantly green waste customers versus commercial food waste. But in general, the commercial food waste -- I'm not sure if I'm going to answer your question directly, but this is the knowledge I have.

The commercial food waste is a blended rate. So in other words, if we receive nothing but commercial food waste, the rate would be much higher. If we receive nothing but green waste, the rate would be much lower.

So San Francisco commercial food waste rate is a blended rate. It's lower than it would be if it were pure -- charged at a commercial food waste rate.

MR. MACY: If San Francisco's material had a small-to-modest percent of food waste, using the language here, that -- say it's similar to, say, Berkeley or SBWMA, would most of this $4.4 investment be required or would it not?

MR. YAMAMOTO: So if the overall site had a lower percentage of commercial food waste would we spend less dollars? Yes.

MR. MACY: And would you say that it's any indication -- is it a large majority of that 4.4 million is required because of the food? In other words, it wouldn't be required if you only had -- if all 160,000 tons of San Francisco material was a small percent of food?

MR. YAMAMOTO: A lesser dollar amount would be required.

MR. MACY: Okay. So would you agree that, given San Francisco companies deliver the largest quantities by far, and the historical role of funding -- and I say largest quantities, again, in the rate application in Schedule E, it shows the tonnages. It's projected to be over 160,000 tons a year from compostable -- and the historical role that San Francisco companies have been providing a large percentage of the compostables going through facilities and, as such, funding their expansion, would it reasonable that the San Francisco companies should get the best competitive rates compared to other customers with similar high food feedstock?

MR. YAMAMOTO: Well, as I mentioned before, San Francisco, within the network of operations that we have, contributes about a third of the revenue that we have. That's kind of a complex question.

We have green waste that is charged at a rate that also bears the cost of capital as well as the ongoing operating costs of a blended composting process. I mentioned earlier that the commercial food waste, by its very nature, requires us to incorporate green waste. So that green waste bears a cost of processing as well.

MR. MACY: I can appreciate the complexities of parsing out costs. I guess it's really about, given that we're giving such a large quantity -- well, let me compare it to your customers you discussed in the last rate hearing and mention it in Exhibit 43 and pictures in 44. One of your customers is Safeway. That's a high food customer.

And would you say that, for Safeway, that the -- that their material, their level of contamination is -- is no less -- let me rephrase this.

Would you agree that the San Francisco companies, the material that they deliver, has no more contamination than Safeway, which by evidence of the photos seems to have a lot of film plastic? And I understand they shrink wrap all of their material before it gets delivered.

MR. YAMAMOTO: That's quite a bit of film plastic but also cardboard. Again, visually it looks much different than San Francisco material. But in term of processing, it's similar. At times some of the loads, depending on the load, it could take more labor to remove some of the contamination.

I think that, to more directly answer your question, I think that, perhaps, if we fairly assessed rates, that some of the other customers should be increased.

MR. MACY: I was going to say, Safeway, you mentioned Safeway delivers 27,000 tons per year charged at 49.88. In your exhibit -- in your testimony you mentioned Safeway --

MR. YAMAMOTO: 49.88.

MR. MACY: 49.99, for 27,000 tons a year.

MR. YAMAMOTO: Right.

MR. MACY: And so San Francisco is delivering six times the amount. And if it has less contamination, sounds like it's a little bit hard to compare or maybe it's similar, but it sounds like you would agree that San Francisco -- would you agree that San Francisco should have a significantly more competitive rate than Safeway?

MR. YAMAMOTO: Well, it's challenging to isolate a single customer. It's highly dependent on the market at the time that we're bidding on two-third customers feedstock.

In a perfect world where we have total control over the market and the ability to attract customers, we could manage that. But in terms of attempting to attract additional customers so that we can defray the costs, scheduled costs of our operations and capital, we don't always have that control.

MR. MACY: Okay. I want to introduce one more exhibit. And this is one sheet that has on one side, "Recology the Compost Store," and the other side is a copy from a web page from the CompostStore.com describing different Recology products.

So you, in your testimony in the previous hearing -- you may have made reference to it today about the market value of compost. Just want to confirm that these products that are listed in this exhibit that I just introduced are products that are either from the Jepson Prairie or Grover compost facilities.

MR. YAMAMOTO: Mm-hmm.

MR. MACY: It shows a Clean City compost and a Wonder Grow compost as compost from yard trimmings that have a high price of $20 a cubic yard. Is that --

MR. YAMAMOTO: Yes.

MR. MACY: And it also shows a Four Course compost from food scraps that has the high price of $35 a cubic yard. And the highest price is the -- is that right, on the Four Course?

MR. YAMAMOTO: Yes.

MR. MACY: And the highest price is the Superior Organic Compost, a JPO Top Soil, and a JPO Ultra Potting Mix selling at $35, a cubic yard; is that correct?

MR. YAMAMOTO: Yes.

MR. MACY: And it's my understanding from the description on the backside of the website that those three highest are a combination of food scraps and yard trimmings.

MR. YAMAMOTO: Correct.

MR. MACY: So this seems to show that the food waste compost actually has higher value than the yard trimmings. Food-only higher value -- I realize it's not food-only because it's blended, but one that's advertised as nutrient rich based on food has a higher value than yard trimmings only, and the combination which has other material in it, like the Superior Organic JPO Top Soil seems to have higher value.

MR. YAMAMOTO: These are our list prices. They're not the prices that we negotiated -- these are not the prices we demand in the bulk sales in the agricultural markets.

MR. MACY: So the bulk sale in the agricultural market is -- is the food scrap compost sold for less than your yard trimmings only?

MR. YAMAMOTO: It is.

MR. MACY: So these do not reflect that at all?

MR. YAMAMOTO: Correct.

MR. MACY: How much out of your compost market is based on the -- those particular ag prices?

MR. YAMAMOTO: Which particular ag prices?

MR. MACY: Well, do you have an idea of what percentage of the compost is sold to those lower -- in the agricultural market?

MR. YAMAMOTO: As I mentioned earlier in prior testimony, it's the majority of our sales.

MR. MACY: That includes the sales to your vineyards?

MR. YAMAMOTO: Yes, and farmers in the Central Valley.

MR. MACY: I guess what's unique there is you're competing -- to compete in the agricultural market, it's a very different market than on a landscape market. So this is more of like a landscape market pricing?

MR. YAMAMOTO: These are landscape rates.

MR. MACY: I appreciate that they're different markets.

I guess my final question right now is you mentioned the air regulations, 44556.

MR. YAMAMOTO: Yes.

MR. MACY: I know this is a factor in the market out there with increasing air regs. In that, you mentioned $650,000 a year. Do you have an idea of what portion of that, of the 4.4 million, is being driven by new air district regulations?

MR. YAMAMOTO: It's not -- that doesn't include the $650,000 per year that we anticipate in expenses related to the air regs.

MR. MACY: That's on top of --

MR. YAMAMOTO: That's simply capital.

MR. MACY: On top of the 4.4-?

MR. YAMAMOTO: Yes, it's expense and capital. The 4.4- is capital investment, and the 650,000 is expense or lost revenue.

MR. MACY: More of an operational --

MR. YAMAMOTO: Yes.

MR. MACY: Okay. I don't have any more questions.

MR. OWEN: We'll mark that last document as Exhibit 61 and receive it into evidence. The document's a single sheet with the title, "Recology the Compost Store."

(Exhibit 61 marked for identification and admitted into evidence)

DIRECTOR NURU: Thank you.

Mr. Deibler, would you like to cross-examine?

MR. DEIBLER: I just have one question for Mr. Yamamoto.

CROSS-EXAMINATION BY MR. DEIBLER

MR. DEIBLER: Good afternoon.

MR. YAMAMOTO: Good afternoon.

MR. DEIBLER: I think there was maybe a little confusion, and I apologize if I contributed to that on Monday.

In reference to tons in and tons out, I made that comment with regard to revenue for the sale of products and just recognizing that it's not a straight correlation, tons in, tons out. It's not a one-to-one.

The point of that was to try to understand what the revenues are on average, what's a blended average rate per ton that you contribute to revenues. Or I could ask it another way. If you took the 48.64, assumed that you had no revenue, what would that turn into as a tip fee if no revenue?

MR. YAMAMOTO: If we had no -- I'm sorry. I'm not following the question. If we had no tip fee revenue from San Francisco?

MR. DEIBLER: No, no. I'm sorry. I'm just trying to understand, you have tip fee that covers cost of processing. It's material coming in.

MR. YAMAMOTO: Yes.

MR. DEIBLER: The cost of marketing that material, various other costs associated with that process.

Then you have some revenue from the sale of that product, eventual product, right?

MR. YAMAMOTO: I think I know what you're interested in knowing, and let me answer the question this way.

If we had no tip fee revenue, our facilities would be at loss. So even with additional tip fee revenue from -- excuse me -- with compost sales, we do make a profit. But we're in the hole without the tip fee.

MR. OWEN: Maybe I could ask the question.

If you weren't able to sell the compost at all, how much higher or lower would your tip fees be, if there was tomorrow no market for compost?

MR. YAMAMOTO: I'd have to run some numbers. I'm sorry. I can provide that information to you later.

MR. DEIBLER: Could you hazard a guess as a range? I don't need an exact number. I just want to understand and help the public understand the role of revenue for this stream. Is there much role or not in terms of helping to defray costs?

If you prefer not to answer, that's fine. You provide some information later.

MR. YAMAMOTO: I'm sorry. Again, I'm running the math through my head. So --

MR. DEIBLER: That's okay. I don't want you to force you to misspeak.

MR. YAMAMOTO: Okay.

MR. DEIBLER: Thank you. That concludes my questioning of Mr. Yamamoto. I had a few other questions on tip fees in general regarding RSF.

When -- is now a good time to do that, or would you prefer to do that later?

DIRECTOR NURU: We can go just a few questions. That would be fine -- and then take a break.

MR. DEIBLER: Might take five minutes.

DIRECTOR NURU: Go ahead.

MR. DEIBLER: I think these questions may be either regarding RSF and the tip fee, the 149.84 tip fee for processing and disposal. So maybe that's Mr. Crosetti?

MIKE CROSETTI,

having been previously duly sworn,
was examined and testified as
hereinafter set forth:

CROSS-EXAMINATION BY MR. DEIBLER

MR. DEIBLER: Good afternoon.
MR. CROSETTI: Good afternoon.
MR. DEIBLER: Regarding the $149.84, which I believe is the proposed new tip fee for processing and disposal, could you just briefly say how that number is developed?
MR. CROSETTI: Well, the number, the operation of RSF involves two facilities. There is cost associated with the processing and disposal of material. Then you have a number of tons that we expect to process. It's simply that cost divided by the ton.
MR. DEIBLER: Thank you. And disposal is a passive expense, correct?
MR. CROSETTI: Yes.
MR. DEIBLER: So that can be extracted easily, and then you have a dollar per ton for everything but disposal; would that be accurate?
MR. CROSETTI: I think that's correct, yes.
MR. DEIBLER: You could derive -- derive that? That's not in the application I believe; is that accurate?
MR. CROSETTI: The disposal cost?
MR. DEIBLER: Is there any place in the application that shows a tip fee for processing only? Let me ask it that way.

MR. CROSETTI: Oh, no. It's just one blended tip fee.

MR. DEIBLER: So if you remove disposal, you have processing. Is it accurate that you would also have cost of transfer and the transport?

MR. CROSETTI: Yes.

MR. DEIBLER: And what is the best way, in your determination, to compare costs between facilities and between operations, between like facilities and like operations?

Would it be -- it's a leading question. Would it be cost per ton? We've just been listening to quite a bit of discussion about cost per tons for composting facilities.

MR. CROSETTI: I think so.

MR. DEIBLER: Think so. So does Recology, in developing the application -- I understand you start with costs. You build up the costs. You look up revenues. You translate that to dollars per ton. I believe that's how that process works.

Do you ever, as a cross-check, look at the dollar per ton for the components within that tip fee? If you take disposal out, you still could have recyclables processing of several types, you have transfer, you have transport. All those can be expressed as a dollar per ton; would that be correct?

MR. CROSETTI: They can be, yes.

MR. DEIBLER: They can be. So do you take those and look at them in comparison ever to perhaps other operations run by Recology affiliates or other facilities around the state that provide essentially the same services?

MR. CROSETTI: Generally, we don't. We -- you know, it's an integrated facility. The equipment is shared by various work units. It moves from one work unit to the other. People also do that. Depending on the volume of that particular unit, public disposal or the IMRF, the sorting facilities. So it's people and equipment move from place to place.

MR. DEIBLER: So is that primarily a function of having two separate locations?

MR. CROSETTI: No, no. That happens within --

MR. DEIBLER: Within?

MR. CROSETTI: One location.

MR. DEIBLER: And is that unique to those facilities that there are multiple functions occurring?

MR. CROSETTI: I don't know that it's unique, but that's what we do.

MR. DEIBLER: I see. Okay. Would it be -- do you think it would be useful to do any sort of that type of comparison? Give an example: Recology's Rogers Avenue facility in San Jose, processing and transfer facility, would it be useful to look at, gee, what are their dollars per ton for these different components -- which that information is available publicly; I'm sure it's available internally -- and compare that to what some of those costs are within San Francisco, again, as a cross-check?

MR. CROSETTI: Yes. But our costs are much different than what would happen at Rogers Avenue, particularly labor costs.

MR. DEIBLER: Do you think you could correct for those? Again, are we in the same ballpark if we make those adjustments, or do you feel they're just too different.

MR. CROSETTI: I imagine you could correct those, yes.

MR. DEIBLER: Thank you.

DIRECTOR NURU: Okay. Thank you.

Okay. At this time, we will take a 15-minute break. That means we will reconvene at 3:20. Thank you.

(Recess taken)

DIRECTOR NURU: Okay. It's 3:25. We should resume. I hear the Company has some redirect for

Mr. Yamamoto, if he would come up.

And Mr. Baker has a few questions.

MR. BAKER: Thank you, Mr. Nuru.

PAUL YAMAMOTO,

having been previously duly sworn,
was examined and testified further
as hereinafter set forth:

REDIRECT EXAMINATION BY MR. BAKER

MR. BAKER: Mr. Yamamoto, do the Recology composting facilities actually charge two different tip fees for San Francisco material, depending on what the material is?

MR. YAMAMOTO: Yes, we do. For commercial food waste, it's $49.88 per ton. And for pure green waste, it's $35.16 per ton.

MR. BAKER: Do you know where the pure green waste comes from that San Francisco delivers and gets charged at that lower rate?

MR. YAMAMOTO: Generally Parks and Recs and public drop-off.

MR. BAKER: And then the higher rate applies to all other San Francisco material that is delivered to the composting facilities?

MR. YAMAMOTO: That's correct.

MR. BAKER: In your Exhibit 43, you have in there an estimate of food to total ratio for San Francisco of 75 to 90 percent. Is that 75 to 90 percent of the material that falls into the category that's charged at 49.88 a ton, or does that 75 to 90 percent reflect all San Francisco material?

MR. YAMAMOTO: I'm sorry. Could you ask that question again?

MR. BAKER: Sure. You say there are two categories of material that is delivered from San Francisco, and they're charged at different rates; is that right?

MR. YAMAMOTO: Yes.

MR. BAKER: And do you know the approximate tonnage?

MR. YAMAMOTO: The total tons for all of San Francisco is approximately 150-, 160,000 tons a year. Green waste, pure green waste, is just over 6,000 tons.

MR. BAKER: All right. So in your memo, the 75 to 90 percent estimate, what waste stream does that refer to?

MR. YAMAMOTO: That's the material with the higher percentage of commercial food waste, and, yeah, that's charged at the high rate.

MR. BAKER: Now, Mr. Macy asked you about the SBWMA, which is the group of San Mateo County cities;

is that right?

MR. YAMAMOTO: That's correct.

MR. BAKER: Do Recology facilities charge the SBWMA two prices as well?

MR. YAMAMOTO: We have two prices available also.

MR. BAKER: What do they reflect?

MR. YAMAMOTO: One reflects commercial food waste. It would be feedstock that's similar to what San Francisco produces except in a much smaller volume.

Then the other rate would be for primarily residentially collected food scraps and green waste with some potential for commercial material as well.

MR. BAKER: What are those two prices?

MR. YAMAMOTO: The first, for the commercial food waste, is $46.55 a ton. We typically don't receive that material. All of last year, I believe, we received zero last fiscal year.

For the green waste with residential food scraps and some commercial food waste, it's $29.63.

MR. BAKER: Did you receive waste that fell into that lower price category?

MR. YAMAMOTO: Yes.

MR. BAKER: So you aid that, last year, you didn't receive any commercial food waste for which you charge the higher price, 46.55, from SBWMA?

MR. YAMAMOTO: I believe that's correct. And at the most, it was de minimis.

MR. BAKER: Does SBWMA generate that sort of material?

MR. YAMAMOTO: They certainly do.

MR. BAKER: Where does it go?

MR. YAMAMOTO: Goes to one of our competitors.

MR. BAKER: Where is that?

MR. YAMAMOTO: Newby Island in San Jose.

MR. BAKER: Even though you don't get food waste at $46.56 a ton from SBWMA, nevertheless, why is the price that you charge SBWMA -- should they actually send that material to you, why is that price less than San Francisco's price?

MR. YAMAMOTO: Well, the SBWMA is smaller volumes. The more material that we receive in terms of commercial food waste, the more intensive our costs are, higher costs.

But also these rates, the two rates that we're discussing, were submitted by the prior management who owned the operation before Recology acquired the facility.

MR. BAKER: Now, in many businesses, there's a concept called economies of scale. Have you heard that phrase before?

MR. YAMAMOTO: Yes, sir.

MR. BAKER: So in many businesses, the greater the volume, the lower your costs. And therefore, customers with high volumes are charged lower prices. Are you familiar with that concept?

MR. YAMAMOTO: Yes.

MR. BAKER: Does that apply to this business?

MR. YAMAMOTO: The inverse is actually -- the inverse actually applies within our operations. The higher volumes of commercial food waste drive significantly more capital and expense that I described before.

MR. BAKER: Is that one explanation for why San Francisco's price at $49.18 a ton is higher than the contractual price you have for SBWMA should they actually send you commercial food waste?

MR. YAMAMOTO: That's one of the reasons.

MR. BAKER: Other reasons are?

MR. YAMAMOTO: Other reasons -- well, again, that's the primary reason, just the costs derived from managing commercial food waste.

MR. BAKER: So let's talk about Berkeley. Is there anything about the relationship that you have with the City of Berkeley that is different from the business relationship you have with your other customers?

MR. YAMAMOTO: The City of Berkeley includes a transportation component. And again, this prior management, Grover management, submitted the bid and the numbers for this particular contract, at least originally.

They took advantage of a back haul. Delivering material, raw feedstock, from the City of Berkeley to the Grover operations in the Central Valley became a back haul to the site's front haul.

Grover delivers finished product into the East Bay at the various landscape suppliers as well as, you know, other consumers. So that economic benefit was incorporated in the tip fee as well.

MR. BAKER: Does that economic benefit of the back hauling make it economic for Recology to charge Berkeley a lower tip fee?

MR. YAMAMOTO: It does. It affords a lower tip fee.

MR. BAKER: And again, with regard to volumes, how do Berkeley's tonnages compare with San Francisco?

MR. YAMAMOTO: Quite a bit less, on the order of 30,000 tons versus 16,000 tons. Also Berkeley is predominately green waste.

MR. BAKER: Looking at your chart, Exhibit 57, in which you divided Recology's organic group customers into three categories. And you've answered the question before, but I liked the answer so much, I'll ask it to you again.

If you were only serving customers that fell into that third category, that is, customers that delivered green waste only, your processing costs would be less you've told us; is that right?

MR. YAMAMOTO: It would be dramatically less.

MR. BAKER: Do you have some idea on an order of magnitude?

MR. YAMAMOTO: It would be possibly half what we're currently charging for commercial food waste.

MR. BAKER: And if you -- if Recology's composting facilities, let's say, were only accepting green waste and then you were told that in two years you're going to have to accept large volumes of food waste, would you have to make investments in order to be ready to do that?

MR. YAMAMOTO: We'd have to make substantial investments, yes. We'd have to replicate what we currently have in place.

MR. BAKER: So if those extra expenses and that extra investment -- in other words, the marginal costs of accepting food waste -- was charged only to those customers that delivered significant amounts of food waste to your facility, would the tip fee charged to those customers like San Francisco be higher or lower than the $49.18 tip fee that applies?

MR. YAMAMOTO: So if all the capital and all the best management practices related to commercial food waste were assessed to San Francisco tons of commercial food waste only, it would be significantly higher than $49.18.

MR. BAKER: Which customer at your facilities, composting facilities, is most comparable to San Francisco?

MR. YAMAMOTO: The Safeway material. In terms of volume, there's no other comparison.

MR. BAKER: In terms of volume, there's no comparison for what?

MR. YAMAMOTO: Volume of material. There's no other customer that generates the magnitude and the volume that San Francisco does because of the -- the success of the program.

MR. BAKER: So is there any customer that's the most comparable to San Francisco?

MR. YAMAMOTO: There's no other customer like San Francisco.

MR. BAKER: Which one's the closest?

MR. YAMAMOTO: It would be Safeway.

MR. BAKER: Safeway, thank you. And how much do you charge Safeway?

MR. YAMAMOTO: $49.88 a ton.

MR. BAKER: Which is 70 cents above San Francisco; is that right?

MR. YAMAMOTO: That's correct.

MR. BAKER: A question was asked before the break about the possibility if you had no revenue at all from the sale of compost.

First of all, what percentage of your revenue is just from compost sales?

MR. YAMAMOTO: For the completed fiscal year last year, just over 10 percent.

MR. BAKER: So if you had no compost sales at all, can you estimate what the additional per ton tip fee would have to be to cover the additional costs that are now covered by compost sales?

MR. YAMAMOTO: Distributed across all customers and all tons, it would be somewhere around $4.50 a ton.

MR. BAKER: If you -- going back to the Safeway example and restating the question, if you look at customers that are comparable to San Francisco to the extent you can -- you identified Safeway -- is it fair to say that San Francisco is getting a best price available under those business circumstances?

MR. YAMAMOTO: Based on those conditions, yes.

MR. BAKER: And in fact that you said that, because of the reverse economies of scale here, higher volumes translate into higher costs; is that right?

MR. YAMAMOTO: That's correct.

MR. BAKER: And San Francisco's volumes are significantly higher than anybody else's?

MR. YAMAMOTO: Yes, by an order of magnitude.

MR. BAKER: I don't have anything further.

DIRECTOR NURU: Thank you.

Would the City cross examine? Any questions?

(No response)

DIRECTOR NURU: The ratepayer?

(No response)

DIRECTOR NURU: Okay. Thank you.

So we will go to the workman's compensation.

Mr. Quillen, I believe you were taking the stand.

MAURICE QUILLEN,

having been previously duly sworn,
was examined and testified further
as hereinafter set forth:

EXAMINATION BY MR. WHITE

MR. WHITE: Good afternoon, Mr. Quillen.

MR. QUILLEN: Good afternoon.

MR. WHITE: We heard on Monday about workers' compensation from a cost point of view. Is it fair to say that your area of expertise is more in the area of operations?

MR. QUILLEN: Correct. My expertise is in operations.

MR. WHITE: Okay. So can you speak to the issues of -- let me ask this a different way.

Are issues of safety a core part of your responsibilities?

MR. QUILLEN: Yes. Safety is a core part of my responsibility. It's one of my primary accountabilities as manager of collection operations.

MR. WHITE: What sort of things do you do from an operational perspective to keep worker compensation claims to a minimum?

MR. QUILLEN: Well, the Recology companies have a very robust safety program that relies heavily on a series of safety meetings and training. You know, a fundamental backbone for a safety program is training, awareness, and on-the-job training.

Would you like me to go into detail?

MR. WHITE: Sure. Well, starting with new hires, when you hire someone, what do you do to help them get into Recology's culture?

MR. QUILLEN: Well, we initiate an on-boarding process. And as part of the on -boarding process, we expose them to our work and safety rules. Then they receive vehicle training on the type of truck that they are driving. Then they work with a seasoned driver that's experienced breaking in new drivers for some period of time before they're allowed to go out on their own.

MR. WHITE: As employees continue with Recology, do they continue to get training messages regarding safety?

MR. WHITE: Yes. We basically take a top-down approach to safety management. The safety department trains all the managers and supervisors. We conduct 24 training meetings for all the management group. The managers then conduct monthly safety meetings for all the different business units throughout the companies.

In total, we do about 190 safety meetings per year across the region.

MR. WHITE: Okay. And what sort of monitoring does management take with respect to those sessions?

MR. QUILLEN: We spend a significant amount of time monitoring all of the aspects of our safety program. We produce a monthly operation report.

And the monthly operation report is the document that we use to manage our safety program. It identifies the key performance indicators, such as the number of accidents and incident rates. Also looks at the specific incidents on the exact route. And we look for corollaries between the routes and the type of accidents that might occur.

So we direct, at that point, some of our operations groups to deal with specific issues associated with routes that tend to have higher incident rates.

MR. WHITE: Once an incident happens, say an employee hurts themselves, is there any sort of follow-up?

MR. QUILLEN: Yes. Irregardless of the size or type of accident or injury, we conduct a very thorough review of every situation. The safety group in conjunction with the operations group will sit down with the employee and try to determine what all the factors associated with the incident were and, in some cases, retrain or recommend corrective action.

We're very proactive. Many times these will highlight issues that we haven't necessarily looked at before. In general, we then deal with them per route.

MR. WHITE: And do you have an ongoing program to observe what folks are doing right as well as mistakes that might happen?

MR. QUILLEN: Yeah. We do a very good job observing our employees' behavior throughout the course of the year and literally perform thousands of observations. Not all of the observations are negative. Many of the observations are good.

The company generally likes to reward employees who are exhibiting good safety behavior. Probably our most notable program would be our Zero-Zero Club. The companies maintain a roster of all the employees who are able to work throughout the calendar year without having any accidents or having any injuries.

And generally it's a pretty significant number, typically three quarters or more of our work force can make this list on an analyzed basis.

MR. WHITE: Now, going back to the employee who does get hurt, what sort of -- from an operational perspective, what do you do to help get that worker back working rather than on workers' comp?

MR. QUILLEN: Well, when an employee gets hurt on the job, we employ a relatively aggressive case management process where the safety group will work directly with the treating physician or nurse practitioner to try to determine what type of, you know, prognosis we're looking at, whether this might be an extended or short-term injury.

We also actively employ a temporary alternative work program where we can sometimes get employees back on the job sooner than if they were typically, my experience, if they're just left home.

It also allows us to do some work hardening. So in the case of an employee who may not be able to do his job at 100 percent, we can bring him in; he can work at a reduced capacity for, you know, a period of time.

MR. WHITE: What do you mean "reduced capacity"? Different job, less time?

MR. QUILLEN: Different job. Typically the hours are very consistent. It would be a job that wouldn't be as strenuous.

MR. WHITE: Now, we heard on Monday that costs are going up. Is -- are costs the way you look at things from an operational perspective?

MR. QUILLEN: No. You know, the actuarial numbers presented on Monday, I think, represent program costs and operations.

We look at the specific number of accidents and the incident rate, which is really how the insurance industry looks at, you know, our company's ability to manage our safety program.

MR. WHITE: Since Monday, have you gone -- worked together with your staff to put together some information about what's happening to the incident rate as costs are going up?

MR. QUILLEN: Yeah. Really wasn't much work. We simply just looked at our reports, and were able to summarize some of the annualized numbers.

MR. WHITE: Were you able to reach any conclusions about the incident rate?

MR. QUILLEN: The incident rate is generally flat for the last three years. This year has a slightly improved incident rate over last couple of years.

So generally, I would have to assume that, given the number and incident rate, the safety programs are very consistent.

MR. WHITE: Is there anything else you looked at about the safety program?

MR. QUILLEN: Just something that -- Recology takes safety very seriously. And while it's easy to sit back and look at the numbers from an administrative standpoint, these are actually employees. And when they get hurt on the job, it affects their ability to meaningfully contribute to our work force.

So we definitely do look out for employees. We also understand that, when our employees aren't able to come to work, it affects our ability to provide service to our customers. So from a standpoint of service and safety, we spend a great deal of time working with our employees.

And I think testimony was given on Monday -- our numbers are definitely lower than what the industry average would be. I think that's indicative of our commitment to safety.

MR. WHITE: Mr. Nuru, I don't have any further questions about safety of Mr. Quillen, but we do have one follow-up with regard to his City cans audit.

DIRECTOR NURU: Please proceed.

MR. WHITE: Mr. Quillen, I understand there was a question posed to you about tonnages resulting from -- tonnage changes in the schedules of the rate application resulting from the City can audit that you performed?

MR. QUILLEN: Correct.

MR. WHITE: Could you let us know what the changes in tonnages were as a result of the that audit?

MR. QUILLEN: Yes. Based on the estimated tons for the public litter cans, the change in the number of public litter cans resulted in a decrease of the DPW tons. The tons were reduced from 20,928 tons to 20,517 tons. This would represent an offsetting increase for the Fantastic 3 tonnage and would change the Fantastic 3 tonnage number from 158,815 to 159,226 tons.

MR. WHITE: That was for which rate year?

MR. QUILLEN: That would be for Rate Year 2014.

MR. WHITE: Was there anything else?

MR. QUILLEN: No.

MR. WHITE: Thank you. No further questions.

DIRECTOR NURU: Mr. Legg, would you -- cross-examination or --

MR. LEGG: William, if you have questions, please come on up. Are they for Mr. Quillen?

MR. SCHOEN: Yes, they are.

MR. LEGG: Not so fast there, Maurice.

CROSS-EXAMINATION BY MR. SCHOEN

MR. SCHOEN: Good afternoon, Mr. Quillen.

Let me start by just asking if you would acknowledge that safety and a company's safety record is one of, if not the most single, important aspect of a company's operation -- safety first, if you will. And it impacts not only workers' compensation costs but it has operational cost impacts and customer service impacts as well. Would you agree with that?

MR. QUILLEN: Yes, I would.
MR. SCHOEN: What do you see as the most significant safety issues and accidents and injuries the company is facing today?
MR. QUILLEN: Well, when we look at safety from the broader spectrum, I think the challenge that we are faced with on numerous occasions is specifically the collection area.
San Francisco represents a very different collection situation. Given the geography, the hills, the distance that we have to go pick up the recycling and refuse containers, that probably represents the single-most, you know, largest-most concern that a company looks at.
I would have to say that almost in every situation, when you looked at commercial or apartment customer, the drivers are going inside. If the customer's on a hill, the diver's going to have to go upstairs or downstairs in order to get access to a container.
So the most challenging part of actively managing a safety program in San Francisco is the fact that you're actively managing a safety program in San Francisco. And I think that makes it difficult to compare what we do in San Francisco to other companies.

MR. SCHOEN: Let me ask you this. You mentioned your operational report, and I'm wondering if it's possible to get a copy of that just so the City and the ratepayers can see the type of information you track, since it is such a critical aspect?

MR. QUILLEN: Yes.

MR. SCHOEN: Can you talk a little bit more specifically about the types of benchmarks you use? Is it, you know, DART rates, your total recordable injury rates? What specific benchmarks do you use to gauge and improve safety?

MR. QUILLEN: We use gross claims and the incident rate. Those two numbers basically represent the number of incidences. And the incident rate is the insurance industry standard for determining the statistical propensity for a driver or employee that get injured on the job.

MR. SCHOEN: When you say "incident rate," are you referring to a mod factor?

MR. QUILLEN: Insurance modifier.

MR. SCHOEN: Is that the only thing you track? You're not looking at other benchmarks?

MR. QUILLEN: Well, there's -- it would look at lost time injuries as it relates to the severity. You know, generally, the lost time injuries obviously will be protracted in severe incidents and not so much in the case of a splinter or a cut, things of that sort.

You know, generally, severity is not something that we manage. We try to manage the types. We understand the truck operations, collection operations. We basically established work rules that look towards, you know, rectifying, dealing with a lot of our issues, such as backing and things of that sort.

MR. SCHOEN: So can you give us an example of sort of how you use those benchmarks to identify problem areas and what type of diagnostic review you undertake to try to identify the root causes of the injuries and then, you know, how you go forward with that information in terms of improving performance?

MR. QUILLEN: Well, I think, to answer your question, benchmarking and root cause are two different things. You know, benchmarking generally looks at the different types of accidents. And we'll break those into, you know -- or injuries will be based on backing or collecting, going inside the premises, just generally the things that we do while we're collecting the trash or recyclables. That represents the trend analysis.

The causation analysis I think is specific to each and every specific incident. Many are the same, but, honestly, many are quite different.

MR. SCHOEN: Can you give us an example, though, of -- through your review of accidents and injuries, identifying a problem or concern and an action that was taken to address that concern and then ongoing monitoring to see if that action was affected?

MR. QUILLEN: We've had situations where vehicles aren't allowed to back into a space unassisted. So in those particular situations, we will provide the driver with assistance. Some cases it might be a two-person truck. In some very rare examples, we'll actually bring a supervisor out to the point of collection during collection to help the truck maneuver through a difficult space.

You know, obviously, we want to try to mitigate those types of claims. It's difficult to really say, you know, what you can do to solve every problem. Generally, we look towards the trends and try to deal with them one by one.

MR. SCHOEN: Let me ask you this. You mentioned that -- I thought I heard you say that your numbers were lower than the industry average a moment ago. And I'm assuming that was your mod factor. Can you clarify that? Because I guess the bottom question I have or the ratepayers have and I'll ask you, you know, is for the company to support the reasonableness of your safety program.

Let me step back. There's -- in terms of the workers' compensation, we've got factors that are not specific to the company and factors that are specific to the company. I think, in going through our review and talking to I think Mr. Tabak, I believe he mentioned that all of the increases were related to factors not specific to the company. But with those factors that are specific to the company, being able to assure the City and the ratepayers that the associated costs that are factored in relate to an operation that is comparable to an industry standard for a similar operation, realizing San Francisco is unique, but being able to demonstrate that recent safety performance is indicative of a safe and effective operation here in San Francisco.

MR. QUILLEN: Well, yeah, I think some of that would really be left up to the actuarial to determine what represents the industry standard. I'm just basing my assumptions off of what our numbers have been. They're somewhat consistent.

He had mentioned that our numbers were higher as compared to the other Recology subsidiaries. And in the case of auto liability and general liability, they're actually lower than the rest of the Recology subsidiaries. And in the case of workers' comp they're about 60 percent higher.

And I think that that's somewhat indicative of the collection area. It's difficult to compare San Francisco to a generally flat rural environment or not quite as urban an environment.

MR. SCHOEN: Let me ask you, looking back, because we were provided with historical mod factors. And back in 2006 and 2007, they were extremely low for both RSF and RSS, RPG, well below the one industry standard, if you will. Those have risen, are substantially higher than that now. In the case of the collection companies, we're at about a 1.5

And I'm wondering if you can explain what happened to drive that significant increase in mod factor?

MR. QUILLEN: You know, I can't explain what changed the mod factor. I can tell you that the numbers have been relatively consistent as it relates to accidents and injuries.

We did see the numbers go up a little bit in 2011. And I think that was specific to the roll-out of the recycling program. We put a lot of routes out on the street in a very short period of time. We had a lot of new drivers who didn't necessarily understand what it takes to perform a collection in San Francisco, so we did see a slight increase.

In 2012, the numbers came back down again to what we consider to be our normal run rate.

MR. SCHOEN: On your mod factor rate?

MR. QUILLEN: On the number of claims and the incident rate, yeah.

MR. SCHOEN: Let me sort of shift gears a little bit. I understand the company is revising its focus or its safety program at this point moving forward. Can you talk a little bit about that, what you're changing and why and what you expect out of those changes?

MR. QUILLEN: Well, we're looking at some -- we're looking at implementing some new procedures and practices with TPA as it relates to workers' comp.

I'm not sure exactly what's in store for us from a corporate standpoint. Just locally we've changed the frequency and the way in which we manage the cases with the TPA. We now have quarterly reviews where we address all the open claims that occurred in prior years, months or weeks. Depending on the severity, we'll manage some more than others.

The TAW program is the biggest tool we used to get people back to work. And that's been around for a while. I think it's shown that it does allow us to get the employees back to work sooner. We're looking at potentially bringing a nurse practitioner on site. And with the addition of a nurse practitioner, eventually we could deal with a lot of the claims in house and not have to put them out to medical. So the cuts, scrapes, bruises, the minor things would all be within house.

Generally our safety program has been rather consistent in the application of our work rules.

MR. SCHOEN: You mentioned the focus on frequency and incident rates. Do you have specific goals for your safety program, measurable goals that you benchmark against internally?

MR. QUILLEN: We do. We will typically look at the prior year's performance and then attempt to determine what we believe to be a reasonable number for the next year.

In some cases, specifically the Golden Gate operation, we got the numbers down to where they were rather low. And we decided that the following year's numbers should generally represent a carryover in the numbers.

The following year, we didn't hit the goal or were up by a couple claims. And we're always striving for improvement, but it's -- it's a very challenging city, and sometimes it's not as easy as it sounds.

We looked at using the DART system, which really is an indication of severity. And while the DART method may have given us some better numbers to look at, better in the sense that they might have been smaller, I don't think it really represented the thoroughness that we would like to see in our safety numbers.

We track everything. So when we represent the number of claims, it's the complete universe of everything that happened in our -- you know, in our company over the course of the year. DART would take the small ones and basically eliminate them, make them statistically irrelevant.

And I guess you could argue that, if we did that, we would have better incident rate numbers. But from the standpoint of managing the safety program, I think it makes more sense to look at everything. And you know, what represented a cut or crushed finger could maybe be an indicator of something greater that, if you're not paying attention, could cost you a lot of money in the future.

MR. SCHOEN: Could you sort of characterize where you stand now in terms of your current safety record compared to your historical safety record and where you would like to be and maybe where you expect to be with a renewed focus going forward in the next couple of years?

MR. QUILLEN: Well, can I tell you right now that our mid-year numbers for 2013 are below our 2012 year actuals at this point. We're about 10, 15 percent below those numbers.

So at this point, I'm generally in attainment of what I believe to be our goals. Trying to improve the numbers, but like I said earlier, these are people getting hurt. We'd like to see that number be zero. Unfortunately, given the nature of the collection operation, it's unreasonable. But we're trying.

MR. SCHOEN: How about benchmarking against the industry? I know it's a little difficult. But you had mentioned that you're numbers were better than the industry. And I'm not sure if that was mentioned, but how do you stack up against the industry? And how do you make those comparisons, if you do, given the difficulty?

MR. QUILLEN: I think that would be the actuarials would have to respond to that, let us know what they believe to be the industry numbers. We've been just tracking our numbers with the understanding that we're below what the actuarials consider the industry average is -- as a company.

MR. SCHOEN: I guess the final question then, in terms of coming back, how would you demonstrate, you know, on what basis would you demonstrate to the ratepayers and the City that your safety record, your recent safety record and how that's impacting the workers' compensation costs is indicative of an effective operation consistent or better than the sort of trends and to the extent that it could be compared to the industry? What would you do or what can you do to make that case?

MR. QUILLEN: Well, you'd have to do some analysis of past safety experience. And we know what the incident rates are. If you can determine what the incident rates are based on the actuarial, you can make that comparison.

MR. SCHOEN: Is that something you can do? I just come back to safety, and I think we agree it's probably the number one factor, not only for safety but indicative of other aspects of the operation. I think that's a very important, I think, analysis that needs to be done given the significant increase in workers' compensation and, I think, hopefully will demonstrate that the company is performing well.

So I'd request, if you can do that, I think it would be useful to put that into the record.

MR. QUILLEN: Yes, we can. I just wanted to remind you that the increases in the workers' comp don't necessarily represent what occurred on the routes recently.

It represents the actuarial information -- program, expenses. There's a lot more that goes into that number than just the hard costs that go with an injury that occurred.

MR. SCHOEN: Understood. But I think we're on the same page as far as a demonstration.

Thank you very much.

DIRECTOR NURU: Cross-examine?

MR. DEIBLER: Thank you. I'll be quick. One or two questions.

CROSS-EXAMINATION BY MR. DEIBLER

MR. DEIBLER: Mr. Quillen, thank you. First, I want to say I really respect -- I understand enough about operations to really respect how difficult it must be to collect in this City and in certain parts of the City in particular. And I also respect that you have a difficult job.

You mentioned the Zero-Zero Club. I want to ask you just a little more about that. Is that collection staff only, operations staff that can have the opportunity to participate in that club?

MR. QUILLEN: Yes, it's the men and women who drive our trucks. We don't include the managers and supervisors. While we do track their safety record, it generally doesn't amount to much at the end of the year. We really want to award the people who are out there collecting the recyclables and make sure that their peers acknowledge the fact they were able to be go a year without incident.

MR. DEIBLER: And what benefit do they get? Do they get a bonus or something related to having achieved that membership?

MR. QUILLEN: They get their name on a plaque, and the plaque goes in our room, our great hall. And that sort of represents the reward they get for that achievement.

We have a monthly safety award that we put out, part of our collective bargaining agreement. And generally, if you're able to go a whole year without having an incident, you'll get 12 months of your safety award. If you miss a month, then you'll lose your award.

MR. DEIBLER: So the award, again, is a recognition?

MR. QUILLEN: Primarily, the award is a

recognition.

MR. DEIBLER: Have you considered a monetary award, a bonus? Given the costs involved, it could be 1,000 to be a member of the Zero-Zero Club, might be a small investment -- or 500 or 100.

MR. QUILLEN: We could consider that if the funds were made available through the rate process.

MR. DEIBLER: Well, if it resulted in a net decrease in workers' compensation and cost requirements, then maybe they could be.

MR. QUILLEN: We could look at monetary awards. Typically the Zero-Zero Club is something we do just as a matter of fact. We just want to make sure the employees get recognized.

Our hall is used by quite a few community groups. It's nice to see your name up there, the situation where family members will be in the building, and they'll show their significant other, "That's me on the wall right there. I went a whole year without getting into an accident."

When you consider the City, that's a pretty formidable task.

MR. DEIBLER: I don't want to downplay recognition. That's of value.

Do I understand correctly, the Zero-Zero Club, that 75 percent -- you said three quarters about --

MR. QUILLEN: Yes.

MR. DEIBLER: So three quarters of the drivers do not experience an injury or accident in a given year?

MR. QUILLEN: (Nods affirmatively)

MR. DEIBLER: So do you have a goal for -- William asked you some questions about goals. Do you have a goal for the membership of that club? Would you like to get it up to 85 percent or 90 or -- do you think it's feasible to think in those terms?

MR. QUILLEN: We'd obviously like to have it be 100 percent, but probably that's an unreasonable and somewhat lofty expectation.

We really haven't looked at the Zero-Zero Club in the sense that we want to establish a goal for it. We pretty much use it as a mechanism to catalog or memorialize what occurred over the previous year.

MR. DEIBLER: I guess conversely, is it accurate to say that 25 percent of the drivers do experience an injury or accident of some sort? And I realize that's the whole range of severity from very minor to less minor.

MR. QUILLEN: Generally it can be in the 25 percent range, give or take. We do have situations where you might have a multiple incident. You know, you hit a car, someone hits a car, you might have two or three claims associated with one incident. So the numbers don't trend necessarily on a one-to-one basis. It's generally about that 25 percent ratio.

MR. DEIBLER: So we've been grappling with -- in the series of questions on Monday and today, we're trying to isolate the portion of workers' compensation costs that you can control, recognizing that there's a large amount that you don't control.

Is this an area where this could be a metric that you can use for comparison, both to other affiliates of Recology as well as to other operators, in terms of looking either at the number or percentage of workers that don't experience an accident or injury or the percent that do?

MR. QUILLEN: Yeah, we can produce that document.

MR. DEIBLER: So is that information you can derive from other companies based on their data? You'd be able to say, "Here's where we are"?

MR. QUILLEN: We can provide a summary of that information similar to that.

MR. DEIBLER: Thank you very much.

DIRECTOR NURU: Thank you. This will conclude the workerman's comp question.

We will go to the Contingency Item No. 1.

Mr. Braslaw?

MR. LEGG: I have some follow-up questions, probably primarily for Mr. Braslaw.

But why don't both you and Mr. Glaub would come up.

JON BRASLAW and JOHN GLAUB,

having been previously duly sworn,

were examined and testified further

as hereinafter set forth:

CROSS EXAMINATION BY MR. LEGG

MR. LEGG: Good afternoon. I believe last Monday that one of you stated that the company had not made the decision about, when the actual purchase of the parcel in Brisbane was made, whether the companies would be using a bank loan or a company equity; is that right?

MR. BRASLAW: That's correct.

MR. LEGG: When you prepared the draft application, though, the annual property rental costs that were exhibited in that application was about $900,000 a year compared to something a little more than $1.2 million a year.

And I wanted to know, at that time, had you -- what were the assumptions that were used to arrive at that number at that time, the $900,000 a year? I thought that it was calculated based on a mortgage, based on a loan.

MR. GLAUB: The figure that was used in the draft application was based on a rental value, an estimated rental value and market-type approach.

MR. LEGG: So the --

MR. BRASLAW: It was a market rent for that property. So we --

MR. LEGG: So what were the assumptions in the -- in determining that rent in terms of costs per square foot or costs per acre? What was the assumption?

MR. GLAUB: It was based on 6 percent of the purchase -- of the land value.

MR. LEGG: Okay. I'd like to ask about the other properties that are owned by the San Francisco companies.

Do you know what mechanisms were used to purchase Tunnel and Beatty, 7th and Berry? I know it was selected way before my time.

MR. BRASLAW: No. And those were way, way before my time also. I think there were a variety of purchases of acquisitions, some of which, you know, were many, many, years -- I believe, from the early '60s. And I know that there were some parcels that were acquired later. There were a couple of parcels that I was aware of that were acquired as part of the Tunnel and Beatty complex.

But a lot of the land was acquired earlier, again, in the '60s and '70s.

MR. LEGG: Do you know at all how the companies recovered the costs for those purchases?

MR. BRASLAW: I don't specifically. I do know that different parcels or different components of that cost were recovered in different ways. But I don't know specifically. I'd have to go back and look to see in each one. Some of them may be -- also may be quite old.

MR. LEGG: Sure. Are there any costs related to those acquisitions that are included in the current rate application? Are you still recovering any land purchase costs?

MR. BRASLAW: There's some land -- there's some land recovery costs that are included in the current application. I believe there are some costs related to Tunnel and Beatty, and there's also costs related to some of the Channel Street property and some of the property at 7th and Berry.

MR. LEGG: So where in the rate application do we find those? On what schedules do we find those costs?

MR. BRASLAW: On Schedule D. Go to --

MR. LEGG: For the collection companies or for --

MR. BRASLAW: If you go to -- let me see.

So in the collection companies, there's property rental in Schedule D, about two thirds of the way down the page.

MR. LEGG: Mm-hmm. Is that property rental for -- how much of it is for property that's owned by a Recology entity as opposed to -- Executive Park is not owned by Recology; is that right?

MR. BRASLAW: Right, correct.

MR. LEGG: So besides Executive Park, what properties are you renting from -- you know -- I understand -- I'm just curious if you're paying rents for property that some Recology entity is the owner of, you're paying rent to.

MR. BRASLAW: Yes. Outside of Executive Park, the numbers that are included in the property rental line, some of those are related to properties that are owned by Recology entities.

MR. LEGG: And which are -- and those are -- so there's some property rentals still at the Tunnel-Beatty complex?

MR. BRASLAW: Again, I'd need to go back and look specifically at the detail. Property rental related to Tunnel and Beatty I believe is in the RFS schedule. I believe that the cost in this line item related to the facilities at 7th and Berry, the Golden Gate facilities.

MR. LEGG: Okay. I'd appreciate getting that -- getting that detail and understanding that.

MR. BRASLAW: We'll prepare a schedule that includes all the property rental.

MR. LEGG: Great. Last Monday, when we were talking about the weighted costs of capital to determine what the recovery for the companies should be, it seemed that, in part, the companies are arguing that the weighted cost of capital represents, in part, opportunity costs and that the capital -- you know, either the equity or debt that you would be able to leverage that you were putting toward this property purchase could possibly be put toward, you know, some other investments that would have a return that's more similar to weighted average cost of capital than whatever -- the current interest rate that you might pay on a bank loan; is that true?

MR. BRASLAW: Yeah. The -- basically, capital is deployed, and generally there's a limited amount of capital. So you make decisions as to the deployment based on whatever elements of return you get, financial, strategic, et cetera.

MR. LEGG: And are you thinking of that as the opportunity cost to the San Francisco companies or to Recology as a whole when you're making that kind of estimate about what the weighted costs of capital and what your return should be?

MR. BRASLAW: I think that's really calculated from Recology as a whole because it's really where the -- you know, the source of the capital and the calculation, you know, was oriented to.

MR. LEGG: And I believe, Mr. Glaub, you had also said another reason why using the weighted average cost of capital would be appropriate was because of the risk of the investment and that there's some need for Recology to be covering its risk; is that correct? Or getting return on the risk of those investments?

MR. GLAUB: I don't recall that testimony. But --

MR. LEGG: Do you believe that that's true or not true, I guess?

MR. GLAUB: Risk of the investment?

MR. LEGG: That if you're putting out capital or making a bank loan, that the companies -- I believe it was when I was asking about whether OR should be applied to the weighted average cost of capital. I think you had said yes, OR should because --

MR. GLAUB: Yes, I do recall that.

MR. BRASLAW: But that's not specifically related to the calculation of the weighted average costs of capital. It's kind of -- that's a separate question related to whether it's appropriate to apply OR, which I think is a different analysis.

We use the weighted average cost of capital as kind of a, you know, industry standard and financial standard to determine an interest rate that would be appropriate to apply cost recovery.

MR. LEGG: So I guess at this point, I'm less interested in the weighted average cost of capital, but the risk. And I'm interested in what the risks that you foresee are in a transaction of this kind.

MR. BRASLAW: In the context of whether or not it's appropriate to include OR in the return or --

MR. LEGG: I guess in making a determination about how the companies should be compensated for making the risk. But I'm trying to understand a little bit about what those risks are, that you want -- you want some kind of return for the risk that you're taking.

MR. BRASLAW: Well, I think the return, again, is primarily -- you know, the request is driven by the fact that we're looking to deploy capital to secure the property so that we can move forward with plans for the zero waste facilities.

So the returns really -- you know, is really requested under the regulatory framework that we outlined in the original proposal. And it's in the contingent Schedule 1.

So that's really the nature of the request is that we believe, under that type of regulatory framework, it's appropriate and customary for, you know, for -- in this type of situation or utility-like structure, to request carrying costs for land that's purchased in advance of deployment for facilities.

And, again, the weighted average cost of capital is just an element of that. But again, the request is really contained under the regulatory framework. It wasn't specifically developed or contemplated under the idea that it was because there was risk.

I think any time you deploy your capital, you undertake some risk because you're putting your money out somewhere and hoping to get some type of return for it.

MR. LEGG: What would you think of the idea of the City acquiring that property on behalf of ratepayers and then not charging -- you know, ratepayers not having to pay carrying costs or OR?

MR. BRASLAW: I haven't really thought about that.

I do believe it will -- would create some additional complexity in terms of the entitlement process. But I actually can't really speak to it in any more detail because I haven't really considered it.

MR. LEGG: Okay. I want to go back to rental rates. And I just want to know if you have a rule of thumb on what intercompany rental rates would be or how do you determine what those rates are?

MR. BRASLAW: I actually -- quite honestly, I've blocked that out as I moved away from my corporate functions. I'd have to go back and inquire about it.

There is some guidelines that we use to determine the rental rate. So that's something that we can go back and find the additional information. But it's not something I can speak to definitively today.

MR. LEGG: Okay. Are there leases, are there signed intercompany leases, then, for those?

MR. BRASLAW: Generally, yes.

MR. LEGG: You were just talking, and this gets back to the kind -- the concept of carrying costs to build the land goes into production -- and you talked about this the other day as well.

How would -- once the zero waste facility is either -- goes under construction or goes into operation, how are you contemplating recovering the land purchase costs at that point? Because it sounded like the way that -- you know, the proposal was really for the period when the land was held for future use.

MR. BRASLAW: That's correct. That is the proposal. To this point, we haven't created any definitive plans in terms of how the facilities, which, at that point, we assume would include the land, would be recovered. And it really depends on the scope of the development, the cost of the facilities, and then what types of arrangements make the most sense for the company, the City, and the ratepayers.

And that's something that we anticipate working with the City and then coming in in a subsequent proceeding to make some proposals as to how to address it. But it's not something that we addressed in preparation of this application or have really developed far enough to be able to comment on your question.

MR. LEGG: How many years do you anticipate the ratepayers paying these carrying costs as opposed to how long do you think before we would have a new model for recovering those land acquisition costs?

MR. BRASLAW: Well, I believe that, in the next rate proceeding, that it will be vital that we address the zero waste facilities, and that would include how to address zero waste facility development costs.

It may be the case that that's in advance of any real development and that land would still be basically held for future use. But again, it remains to be determined at this point what that would look like, whether or not that would change in the next proceeding, or it would be allowed to carry through until such time that the land -- we begin development. And that's, again, unclear at this point.

MR. LEGG: I'd like to talk a little bit about the weighted average cost of capital which is at the end of your Exhibit 27.

Why did -- in doing that calculation, why did you choose to take the industry average of the three companies -- Waste Management, Republic, and Waste Connections -- and then take that average and add in for a second time the weighted average cost of capital for Waste Connections, essentially counting them -- and I haven't done the math to figure out if they're counted just twice or if they're actually counted even more than --

MR. BRASLAW: They would been weighted more than twice based on that, based on --

MR. LEGG: That's what I'm thinking.

MR. BRASLAW: -- doing it the way that it's done.

And it was weighted towards Waste Connections because, I think, as I had mentioned, that was the closest to Recology in terms of, you know, size and composition of business so to speak.

MR. LEGG: What were the factors in figuring out that they were closest? I think you had mentioned revenues --

MR. BRASLAW: Revenues, one, and type of business. Waste Management and Republic are much more -- they're much more landfill-centric. They also tend -- because they're much larger, they have a much larger kind of variety of types of businesses.

Waste Connections, at this point, tends to be, again, more similar in profile to Recology. It was not -- again, there was not a, you know, lengthy study of the, you know, similarities and differences of all of the various entities.

We went through and used this methodology because it was information that was readily available. Again, determining that Waste Connections was closest to Recology was primarily driven by the similarity in revenue. And it was weighted more heavily because the larger public companies are really very different than Recology, especially in terms of their access to capital based on their overall value and capitalization.

MR. LEGG: Did you use other data sources such as, for example, Morning Star or Yahoo Finance, to check the accuracy of the figures that were -- that you provided us that were from the Wiki Wealth website in terms of those other company's weighted average costs of capital?

MR. BRASLAW: I looked at -- online, I believe, for -- related to Waste Management and Republic. The numbers that I saw were slightly higher. I must admit, I can't recall what website I went to. There's -- you know, you inquire on the Internet; there's several different websites that you can look at to get this information.

MR. LEGG: I want to stop and introduce an exhibit.

This, I need one...

MR. OWEN: We'll mark the document as Exhibit 62 and receive it into evidence. The document is two sheets with the title "Stats WACC."

(Exhibit 62 marked for identification and admitted into evidence)

MR. LEGG: This is something that we found -- that we found in doing a web search of weighted average cost of capital. It's an online calculator by a company called Morrison Analytics. And we cross-checked their figures with Morning Star and Yahoo Finance and found that they matched in terms of the elements of the weighted average cost of capital.

And we found for all three companies that their estimates of the weighted average cost of capital is actually quite a bit lower than that, which was on the Wiki Wealth exhibit that Recology submitted, actually, an average of 5.65 percent instead of 7.17 percent.

And I guess I -- I don't know what the real answer is, but through all of -- all of the information and what's been generated and the calculations and everything, I find it -- the City is finding a hard time arriving at a number using this kind of methodology that would apply to Recology.

And we didn't do extensive research either, but we did find on the Internet there are a lot of calculators of weighted average cost of capital, which is often used -- I think it's on the Internet because it's often used by people deciding whether to make an investment in a company, equity investments, because it's an indicator of relative risk and return --

MR. BRASLAW: Right.

MR. LEGG: -- for equity investors.

That's all the questions I have at this point.

DIRECTOR NURU: Do we have any cross-examinations?

(No response)

DIRECTOR NURU: Okay. Then I think we will move into the topic of fuel cost.

JON BRASLAW and MAURICE QUILLEN,

having been previously duly sworn, were examined and testified further as hereinafter set forth:

CROSS-EXAMINATION BY MR. DREW

MR. DREW: I'm mostly going to be referring to Schedule L3 at RSS, RGG. And it revolves around the vehicles and the fuel.

How many vehicles will be purchased or are purchased in Rate Year 13? Let me go back.

Let's say, according to L3 as I read it, there's 28 vehicles to be purchased in Rate Year 13; is that right?

MR. BRASLAW: According to L3...

MR. DREW: Lower left-hand corner, showing the trucks coming and going.

MR. BRASLAW: Right. There's how many?

MR. DREW: 28. 23, 2 and 3.

MR. BRASLAW: Right, that's correct.

MR. DREW: Do you know if those have been purchased? So we're nine months into 13, Rate Year 13.

MR. BRASLAW: I know they've all been ordered. I know -- I'm sure some of them have been received, some of them may not be received, you know, over the next three months.

And, again, we used -- in 13 and in 14, we used mid-year conventions when we estimated -- to be estimates of our capital costs to account for the fact that some of them will have come in and some of them will come in later.

MR. DREW: Okay. The -- I'm going to skip some of these questions and just get to the point.

Are you aware that there's a California Energy Commission program to -- a buy-down incentive of 20- to $30,000 per vehicle that's active right now?

MR. BRASLAW: I am aware that there's a program, an incentive program.

My understanding is that program has been running since 2011, and there's currently not funds available. I do believe that the company has received approximately $78,000 in rebates under that program for CNG vehicles.

MR. DREW: I would -- my information shows that there still is funds available in that, and I would appreciate more detail on it in terms of a report from the company on the vehicles that you currently -- that you have purchased or will purchase in the remainder of this year and as well in the next year because the funds, as I understand it, will go through the end of 2014. And they recently said they had over $8 million in that fund, 8- to $10 million in that fund.

So moving from that to the price of fuel, actually the use of fuel, where are the vehicles -- where are you fueling the current fleet of CNG vehicles?

MR. QUILLEN: We have a temporary fueling station on site. And we've also been using the PG&E fueling facility.

MR. DREW: On site, you mean at Sunset?

MR. QUILLEN: At the Tunnel-Beatty site.

MR. DREW: At Tunnel-Beatty. And how long has that site been operational, do you know?

MR. QUILLEN: About 60 days now.

MR. DREW: So before that, they were fueled at PG&E pretty much?

MR. QUILLEN: Correct.

MR. DREW: Was there a -- how much time did that -- do you have a sense of the time savings associated with moving the trucks from being fueled at

PG&E to being fueled on site?

MR. QUILLEN: Fueling the trucks on site is consistent with our current practice. So fueling the trucks off site would be extraordinary. And bringing the trucks back on site would be consistent with what our normal fueling expectations are. It takes a bit longer to fuel CNG trucks than the diesel trucks.

MR. DREW: Actually, do drivers fuel the trucks, or is that something that's done by shop personnel after hours?

MR. QUILLEN: The drivers fuel the trucks. It's required at the end of their shift.

MR. DREW: With the CNG specifically, is this -- do you anticipate a new -- beyond this new station that's just opened 60 days ago, is there another fueling station anticipated for CNG specifically?

MR. BRASLAW: The plan in the long run is to create a permanent station that would be a slow-fill station, which is to manage a large fleet of CNG vehicles it's more efficient to have a slow-fill station, something that we need to coordinate with the current facility so we don't end up building it twice.

MR. DREW: Sure. So the temporary one is not a slow-fill?

MR. QUILLEN: No, it is not. It's fast-fill station.

MR. DREW: And do you know the differential in price you're paying now that you're fueling on your site versus what you were paying at PG&E?

MR. BRASLAW: I don't have that information right now.

MR. DREW: Could you get that information? Because the application shows that at the same price all the way along. And I'm curious about whether there's a differential in price now that you're fueling at your own station, essentially.

MR. BRASLAW: Certainly. We'll look into it. And the price that we used is kind of an average price. And it's my understanding that the price of CNG fluctuates because it's kind of a market commodity.

So that's something that, in order to look at the price and evaluate how that compares with the future, we probably need a longer set of data, a longer period to make sure we account for the variability of the price in any one month.

MR. DREW: Okay. That makes sense. I spoke with our clean air team, who have some familiarity with different alternative fuels and some of the fueling options that are out there. Some include, you know, building a station and paying for the capital including -- including that in the price per gallon.

But that's not what you're anticipating. You paid for this new fueling station, or you're paying for it now. It's not a package deal. In other words, the fuel and the station aren't combined. The temporary fueling station you have is one cost, and the fuel is a separate cost?

MR. BRASLAW: That's correct.

MR. DREW: So that -- yeah, we're trying to isolate that. I mean, in a sense, you have to tell us about both costs to be fair to include -- to compare it to what were you are paying at PG&E.

MR. BRASLAW: Right, correct.

MR. DREW: I'd be very interested in hearing that cost, what the fuel cost is currently and will be, you know, for the next some period of time.

And the last thing, given these changes and the complexity, will we be able to analyze the changes in fuel as it associates to the COLA mechanism?

MR. BRASLAW: I think that the way to associate it with the COLA mechanism is to make sure that the index that we use is reflective of -- you know, reflective of essentially a basket of fuels so that it includes the cost of natural gas, it includes the cost of diesel because we're going to have a combination of those costs over time.

And the composition may change, you know, from one to the other, but that's a process that will ultimately take several years. There are -- there may be an index available that reflects the composition of the fuel as we expect to use it.

MR. DREW: And then I guess --

MR. BRASLAW: That's something we can look into.

MR. DREW: I agree with you, and I guess I would add into that factor not just the fuel cost but the fuel usage because that's going to keep varying back and forth. So just to have a --

MR. QUILLEN: One of the things to keep in mind is the fuel usage is based on the Btu content. And the Btu content of natural gas is lower than diesel. So you end up with a multiple -- 1.5, 1.6, different numbers out there. So you don't have necessarily a linear number.

MR. DREW: And I think we're going to have to come up with something that accounts for all of those because it may be complicated -- or maybe it's too complicated to be able to give it one number; we simply have to come up with a set of numbers.

MR. BRASLAW: I think if you identify an index that includes a natural gas component and a diesel component, that it's -- you know, reasonably approximates the composition of fuel that's used, then that is going to be reflective of potential changes in costs and would be appropriate for use within a COLA mechanism.

Again, over time, the -- you know, the use of CNG, we expect it to grow. And the use of diesel will come down.

MR. DREW: I think that that's it.

DIRECTOR NURU: Okay. Any cross-examination?

Okay. So I think what we'll do, I know we still have quite a number of topics to cover. But I would like to open it up to public comment at this period.

So we could hear from the public. If I could see a show of hands how many people.

Okay. So we have two people. I'll allow you five minutes per person for public comment. So this is the only public comment. You do not need to be sworn in unless you intend to present material that you would like to be placed into the record.

If that is the case, I'll have the Clerk swear you in should you have any documents you would like to put into the record.

So when you come forward, please state your name so that the court reporter can enter you into the record. And thank you, and let's proceed with public comment. If I can receive the speaker cards. We have one. I saw two.

Nancy Wuerfel, would you come forward, and I'll take your comments.

NANCY WUERFEL: Good afternoon, this is always a gripping experience for the public to witness this exchange of information. I want to thank you all.

The ratepayer advocate will be submitting to you today my comments that are coming from me and the representation from my group, the Sunset Parkside Education Action Committee. But I would like to support what Mr. Legg has proposed in regard to an idea of the City acquiring land.

In my comments, I didn't have the boldness to suggest that, but I did have an idea that this is a big, big issue. I do not want to put off until the next rate hearing a public discussion of the acquisition and the development of the zero waste facility. It's a big deal. This is going to take something that is going to be needed to be communicated very closely with the public.

So I'm going to urge right now that there is a hearing that comes close to the time when the City decides how you want to proceed. And invite obviously Recology to bring in a discussion.

But I think there's a lot of ideas that need to be explored. And the financing is something that I'm not happy with at all. And you're putting this on my rate. So I'm just suggesting don't jam it up with all the other things that come at these hearings. This is that special that I would like to have a separate activity just to discuss it.

Along that same line, I heard today the idea that we need to sort of level off into what we're going to do in the future. After we achieve zero waste, how are we going to pay Recology? That's another big deal. We cannot leave that until the companies come and say, "We've decided X, Y and Z."

This is a very important topic I want to discuss it ahead of time. I want it to have not the pressure of the time of the meetings. I want to have an exchange. Whether you want to combine these two ideas of workshops and hearings to discuss the facilities costs and who acquires what for what purpose and the rates in terms of not the dollar amounts of the rates but what is the formula? What is the structure of the rates?

Are we going to end up -- if you have garbage you just send me your $50 bill a month, and that will be the end of it? I'm serious. We need to talk about this in advance. I don't think it's fair to Recology to make them come up with great gobs of paper and then to come back and say, "Well, the people aren't going to buy it." Let's talk about these processes ahead of time minus the actual numbers because that's the hard part.

But to have, conceptually, people buy into the fact that we're not -- we don't have a black bin anymore. That's what we're talking about. We'll always have a little bit of a black bin because zero waste means 85 percent diversion as I recall.

But we've got to talk about this ahead of time. And I just want to put that on the record today. It's 2013. Whether we have to come back and meet every year -- you guys are lovely. I just enjoy coming back. But we've got to do this out of the pressure of these requirements and with all of the details of having a transcriptionist and -- you know what I'm talking about.

So I thank you for looking into it. I look forward to coming back and handling the hard stuff before we have a rate hearing. I know we'll be having one of those in the next couple of years too.

Also, I want to compliment Recology for the people that service my block. They are wonderful ambassadors, and they are good people. And I think that they do a fine job in getting the right guys and gals for the job. Thank you.

DIRECTOR NURU: Thank you.

Next speaker is Mr. Robert Davis. And I believe he has submitted a document to be placed in the record. And so I will have the Clerk swear you in.

(Witness sworn)

ROBERT DAVIS,

having been first duly sworn, was examined and testified as herein after set forth:

DIRECTOR NURU: You may proceed.

ROBERT DAVIS: Thank you. I'd like to present an idea about monetizing the trash. It's in regards to all of the illegally dumped mattresses that we see in San Francisco and how much that costs.

According to the latest Cal Recycle report, the City of Oakland -- which is comparable to San Francisco in size I believe -- spends about $220,000 picking up mattresses that have been dumped illegally. My idea is simple. My idea is the same as people paying to recycle wooden pallets or cans or bottles.

And that is, if you take a mattress to the dump, they give you three bucks.

And you're probably wondering, "Well, how are you going to pay for that?" So very easy, two ideas. One is that, over the course of the next five years, if you save $220,000. Giving ought 3 dollars per mattress minus the cost of the mattress. Three bucks times -- what is that? $20,000. We are not talking about a lot of money.

Second thing is that, if you really wanted to pay for this, you could impose a fee on every mattress sold in San Francisco, $3, just like you do when you buy cans, bottles, when you buy tires for your car, change the oil. The model already exists. Very easy idea.

We could set up a system where mattresses are opened, the nylon, the foam, the cotton, the springs are recycled. This creates a couple of jobs. This harnesses the energy of the people who are driving around already looking for cans and bottles. And we know who they are. They come and raid your cans at night on the night before you put your cans out -- the cans are picked up, emptied, whatever, the night before.

So anyway, that's my idea. I'd like to get a little support for this. I think it's a great idea, obviously. I've been talking about it for years. I believe Mr. Nuru thinks it's a very good idea too. I won't speak for him, but I have a little bit of support downstairs or upstairs, wherever we are in the Department of Public Works.

Any questions? There is -- excuse me. There is a -- Senator Loni Hancock has a similar idea that has nothing to do with getting the mattresses off the street.

My idea is we would harness, as I said, the energy of the people who are driving around. They're already out there. You give them three bucks; that's more than you get for a wooden pallet. And you just don't see wooden pallets anywhere.

But Senator Hancock's idea, while I support her, is for the idea to come in -- to get 75 percent of used mattresses in California off the streets by 2020. So between now and 2020, six -- let's say six years times 3, 000 mattresses -- you'll see 20,000 mattresses on the streets.

That's what we want to get rid of. They could be recycled. There is an after-market for foam, cotton, nylon, and the springs.

Thank you.

MR. OWEN: Thank you. We'll mark the document has Exhibit 63 and receive it into evidence. The document is two sheets with the title "Monetizing Trash."

(Exhibit 63 marked for identification
and admitted into evidence)

DIRECTOR NURU: I believe that's the last speaker, so I will close public comment.

And we shall continue with cross-examinations on zero waste incentives.

MR. HALEY: I actually just have one question.

JOHN GLAUB,
having been previously duly sworn,
was examined and testified further
as hereinafter set forth:

CROSS-EXAMINATION BY MR. HALEY

MR. HALEY: It somewhat relates to zero waste incentives. In RSF Schedule C, Page 1, the fourth paragraph of the assumptions, the fourth paragraph states, "Disposal tons are calculated by subtracting diverted tons from total income tonnage."

And while this is theoretically true, I want to clarify that you actually weigh all tonnage going to landfills and that it's these actual tons that would be used for zero waste incentives; is that correct?

MR. GLAUB: That is correct. All disposal tons are weighed prior to hauling to the landfill.

That sentence does hold some truth with respect to programmatic breakdowns on site among different programs because we have to -- because of all the transfers between, like, the public area, the IMRF, which goes straight -- the residue conveyor goes straight in the pit. But total disposal tons are all weighed on the scales.

MR. HALEY: And for the zero waste incentives, we'll be using the actual weight?

MR. GLAUB: That's correct, the actual disposal tons that go over the scales.

MR. HALEY: That's my only questions.

DIRECTOR NURU: Is there any other cross-examination for Mr. Glaub?

(No response)

DIRECTOR NURU: Okay. Next we will go to discussions on housekeeping items.

And Mr. Braslaw, I have you coming up here; I have Mr. Haley cross-examining.

MR. LEGG: Probably not cross-examining, but it's putting some information into the record and correcting some items in the application.

MR. HALEY: I'll actually start with one item, and then I think you have some more to follow.

JON BRASLAW,

having been previously duly sworn,

was examined and testified further

as hereinafter set forth:

EXAMINATION BY MR. HALEY

MR. HALEY: In the Recology Sunset Golden Gate Schedule A, Page 2, the ninth paragraph says, "Volume, distance, elevation, key and other charges are per location regardless of number of trucks used for service."

But if, for example, a split recycling/trash truck and a separate composting truck serve the same location, there would be two charges; is that correct?

MR. BRASLAW: That's correct. We would propose some changes to the language in Schedule A that we would eliminate the words "regardless of number of trucks used for service."

And then in the second sentence, there's also another correction we'd like to make. And that is, it says "at the same or adjoining locations." And really the charges are split amongst customers at the same location, that's customers within one building. There may be different dwelling units but within one building.

MR. HALEY: I think both of those changes make sense. And just to clarify, on the last point, what you're saying is within the same building it's fine to split charges. But amongst adjoining or neighboring properties, it's problematic.

Do you want to explain at all why that's problematic?

MR. BRASLAW: It's problematic in that it creates challenges for us to determine whether people have adequate service, minimum service. They, you know, share their black bin on one side and the green bin on the other side; it becomes difficult logistically.

So it's something that we felt that, by identifying them as each -- basically each building, each separate location, it's appropriate to have their own bins by location.

MR. HALEY: And you had some other items you wanted to introduce?

MR. BRASLAW: I did. There's a couple of schedules that we want to propose changes.

On Schedule H.2 on RSF, there was a correction. In review with the City, actually, it was pointed out that the stationary equipment -- that's repairs to a bailor, conveyor systems, optical sorting systems at the pier -- those should be leased under a ten-year lease. That's been our normal practice. And that's the way that they should have been presented.

They were actually presented as seven-year leases. So we would -- we agree that we should modify those to be ten-year leases as opposed to seven.

The annual impact in Rate Year 2014 is -- the annual cost of the leases for RSF goes from 1.408 million to 1.171 million.

And so -- that will basically -- will provide the information to the City any detail any additional detail and then, in the revised model, go through and include that adjustment.

MR. HALEY: And so to clarify, you would change from "Automate pH neutralization for compostables annex runoff," all the way down through the "wood grinder," all of those items, you'd change those from L7 to L10; is that correct?

MR. BRASLAW: Not the motorized pallet truck. And then there's the paint can opener. So there's a few items that would still be under -- in that list under seven years.

MR. HALEY: So you'll give us a list of all --

MR. BRASLAW: So we'll give you the list -- the trash processing equipment, the equipment related to the optical sorters, and the IMRF equipment conveyors and bailors, those would all be under ten years.

So again, anything that we would classify as stationary equipment, it's been our practice to recover those and to lease those over a ten-year period consistent with their life.

We have a change also to Schedule K.2. This is a change to correct some numbers in Rate Year 2012. The price per ton and the total purchases cost for cardboard and mixed paper have been corrected.

Cardboard, the new price per ton is $145. And the new revenue is 3,564,578. Likewise, for mixed paper -- and that's commercial grade paper -- that is $113 per ton, and the total revenue is 28,217.

It doesn't change the total dollars for 2012, but reallocates those between those two categories, again, correcting the prices for those two commodities.

MR. LEGG: And, Jon, just to clarify, that doesn't have any impact on Rate Year 14?

MR. BRASLAW: That's correct. That's just correcting -- in the model correcting Rate Year 12.

I do have a third Schedule L.2, under "Licenses and Permits," under, "General Administration" section, there was a cost, basically a one-time cost for some appraisal work that we had done for $12,000 that should have been eliminated, should not be included in the projections going forward. So that would be an adjustment that would flow through to Rate Year 14. Again, it was a $12,000 adjustment in Rate Year 12.

That would flow through on that cost because that cost is adjusted by inflation. So we'd like to remove that cost. Again, we will provide that as part of the updated calculation in the rate model.

What else...

DIRECTOR NURU: One more? Yes, Mr. Baker?

MR. BAKER: We have one additional housekeeping matter.

When Mr. Quillen testified, he provided some numbers regarding City can counts. And I think he transposed a couple of numbers. So he wants to correct the record and give the correct numbers.

DIRECTOR NURU: Okay. Thank you.

MR. QUILLEN: I reported a partial-year calculation. And for purposes of the rate, I wanted to make that an annualized calculation.

So for Rate Year 2014, the tons associated with the public litter cans we'll move from 21,008 to 19,365. And the Fantastic 3 offsetting from 157,337 to 158,980.

DIRECTOR NURU: Okay. Thank you.

Okay. Yes, Mr. Baker?

MR. BAKER: And we do have one other piece of information regarding the price that Recology gets for the sale of commodities that staff has asked for us to provide some testimony on.

DIRECTOR NURU: Okay.

MR. BAKER: Won't take very long, but Mr. Glaub is available to do that.

DIRECTOR NURU: Proceed, please.

JOHN GLAUB,

having been previously duly sworn,
was examined and testified further
as hereinafter set forth:

EXAMINATION BY MR. BAKER

MR. BAKER: Mr. Glaub, Recology sells the recyclables that it collects; is that right?

MR. GLAUB: Yes.

MR. BAKER: How does Recology go about making sure that it gets good prices for its commodities?

MR. GLAUB: Selling recycled materials is a core competency of a scavenger company. And we've been doing this for almost 100 years, since the days of horses and carts.

More specifically, Recology believes it receives top market prices for recycled materials for a variety of reasons, including Recology is one of the highest volume producers of recycling commodities in Northern California. Recology produces high quality commodities for sale. Recology has long-established relationships with buyers of recycled commodities. Recology's San Francisco operations are in close proximity to the Port of Oakland, thereby allowing shipment to competitive Pacific Rim markets. And lastly, and perhaps most importantly, it is in every economic interest of Recology to obtain the highest prices for the recycling commodities which it sells.

MR. BAKER: Thank you, Mr. Nuru.

DIRECTOR NURU: Thank you.

Okay. As we begin to close, the ratepayer advocate will summarize some of the comments from this hear.

Mr. Deibler?

MR. DEIBLER: Mr. Nuru, I have one exhibit to introduce.

So this exhibit does the following. This summarizes the website views, updates those. Through yesterday, there were 861 views of the RPA website regarding this process, with the highest one-day total on April 18th of 111.

Also summaries phone calls and emails that we've received. There's a phone log in the exhibit as well as the actual e-mails and our responses, similar to what was done at the 2006 hearing with confidential or private information redacted from those.

What I'd like to do is make a brief statement, if I might.

DIRECTOR NURU: Please proceed.

MR. DEIBLER: Thank you. This is directed probably at both the City and Recology to varying degrees.

First, regarding the rate-structured changes, assuming that they're approved in a manner similar to what they've been proposed, I think the key issue will really be to successfully communicate these to the public. I think you've heard pieces of that issue raised.

I think the core aspect of that will be the ability for Recology to have customer service representatives, CSRs, who on the phone with one-stop shopping can help both residents and apartment owners and managers understand their options and make the changes that best will allow them to adjust to the new rate structure.

And that will be a challenge, just in terms of training, to do that. So they will need to have access obviously to the current account information and be able to say, "Here are your operations, and here's your best choice, maybe, if you can do this."

To allow for multiple service level changes at no charge per customer. I don't know what the common practice is. It's frequently you can have one change per year. Maybe it should be two changes per year for a period, or don't provide disincentive for people to try to adjust.

And I think we all need to be aware of an inherent conflict. This is not a knock of Recology at all, but we're asking them through this process to do something that a for-profit company usually doesn't do, which is to look for opportunities to reduce its revenue.

That's essentially what this rate structure will do. And I think the key to the success of that will be for Recology to really make sure this message flows throughout the company, that reducing the impact of these adjustments, minimizing it, reducing it even the opportunity to reduce their current rate for individual ratepayers is a top priority moving forward.

The second item I'd like to just talk a little bit briefly about the future of the rate structure. We touched on some of these questions a little bit earlier, but developing a long-term vision that's flexible -- needs to be flexible; I understand that -- but that communicates to ratepayers where these changes are headed, what things might look like down the line.

And I realize that the changes, even though in some sense they're incremental, they're also revolutionary. Obviously speaking, the charge of services that had not been charged for is not a small matter. Two dollars per month may be pretty incremental. But these are ground-breaking changes. I understand that. And you're in the forefront for sure.

So the third comment I would have is to bring the public along with you so that they really understand the big picture, again, not just where the rate structure is headed but even a bigger picture.

Exhibit 21 on Page 1 which was comments that I had requested to Recology earlier in the process, I had a set of suggestions for making certain things more transparent. And what that really boils down to is achieving public understanding of what black bin services cost, what blue bin services cost, and what green bin services cost.

So there was sort of -- in terms of my trying to tease out, for instance, what organics revenue amounts to, it's -- part of that is for the public to understand there's not a lot of revenue that comes from the green bin. There's a fair amount of revenue that comes from the blue bin, et cetera. Revenues offset costs. What does that total picture look like for each of the services?

Doing it in a clear, colorful graphic way I don't think would be that challenging, but maybe a focus group could help with figuring out how to message that appropriately.

Finally, I'd like to close with, I think, I guess a bit of a plea. I hope that everyone will look at the comments that were made by the public. There's a lot of effort and time been put into making them. And they have a lot of very valid core concerns, if you get down to what the core is.

I think some of the overall themes, two very quickly, one is just the overall message. People hear the first part of the two-part message, and they hear it's 21.5 percent average increase. They don't hear the "but," here's the second part of the message that comes after that -- there are opportunities to reduce that impact. It's hard to convey two things at once rather than one.

And scavenging, I'll just mention again, may be as much for symbolism. Again, I want to encourage thinking both in terms of symbolic aspects as well as the actual dollars. Maybe it doesn't make sense to make major changes, you know, to try to deal with scavenging. But having a public understanding of what you're doing and why you're doing it would be of value to support that.

And finally, I'd like to just say that most of us that are participating directly in this process are doing fine economically. But the great recession is not over. Unemployment is still very high. And I think we often think of trash as a relatively small expense, and it's relatively small relative to other utilities. And that is true. It is small relative to other utilities in general.

However, many other utility costs are rising faster than inflation. And for many people, utility costs on the margin are advertent. They're a real cost they have to think about every month.

So I think -- I hope you'll take these thoughts into consideration as you think about what just and reasonable means as it's applied in this process. And I want to thank you very much for your time.

DIRECTOR NURU: Thank you, Mr. Deibler. Thank you.

So it appears we have covered all of the times on the agenda. So at this time, I would like to close this portion of the Director's hearing on Recology application on increase in residential refuse collection and disposal rates.

I would like to thank the company for a very clear presentation of the application and for providing additional information and explanation in response to many questions we asked. I also want to thank the ratepayer advocate for your efforts to engage and inform the public on this somewhat complicated topic. You have done an exemplary job of conveying the public's concern and seeking greater clarity from the company as well as from the City staff. I believe the role of the ratepayer advocate has once again added value to the process.

I'd like to acknowledge the efforts of the City staff and their consultants from the Department of the Environment, the City Attorney's office, and of course the Department of Public Works for your thorough review of the application and your examination of the underlying assumptions and factors that go into determining fair and reasonable rates.

Finally, I want to thank the members of the public who sat through hours of testimony and cross-examination and were still here at the end of each day to offer public comment. Your issues and concerns are important and will be taken into consideration as we continue our evaluation of the application.

The next step in the process is for the staff to prepare a report which will be issued in early May. So check the DPW website or the ratepayer advocate website for notice of when that report is available.

We are then scheduled to hold two more half-day hearings on the staff report. Those hearings are scheduled for May 20th at 9:00 a.m. and May 22nd, at 1:00 p.m. A notice and agenda will be posted in advance on DPW's website.

I will then consider all the information that has been presented at part of these hearings, including the application, testimony and exhibits admitted here, the staff report and public comment before issuing a Director's report and recommend order on the rate application. My report will be issued in early June.

As a final item, I'd like to note that a Proposition 218 hearing which will be held to consider written protests has been changed to Friday, June 14th -- Friday, June 14th is Flag Day -- at 1:00 p.m. in this room, Room 400.

Under this provision, any residential customer or property owner may submit a written protest against the application to me. If more than half of the ratepayers file a written protest against the application by the date of the hearing, the City will not approve the application.

Instructions and guidelines for the submission of written protests are available on the DPW website.

Again, I want to thank you all for participating in these proceedings, and we are adjourned. Thank you.

MR. OWEN: For the record, the ratepayers advocate's last document will be Exhibit 64 in evidence.

Please leave quickly and quietly. The Police Commission's meeting starts in about five minutes.

(Exhibit 64 marked for identification
and admitted into evidence)

(Whereupon, the proceedings concluded
at 5:22 o'clock p.m.)