City and County of San Francisco

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Refuse Collection and Disposal Rate Board
Ms. Linda Yeung, for Naomi Kelly, City Administrator, Chair
Mr. Ben Rosenfield, Controller, Member
Mr. Michael Carlin, for Harlan Kelly, General Manager, Public Utilities Commission, Member

Subject: Response to Objections to the Director's Report

Members of the Rate Board:

This letter summarizes my responses to the objections that have been filed in connection with the Director's Report and Recommended Orders of June 7, 2013 ("the Director's Report). Under the 1932 Residential Refuse Collection and Disposal Ordinance ("the 1932 Ordinance"), the Rate Board must rely upon the evidence placed in the administrative record during the DPW Director's 2013 hearings through testimony or documents. In the sections below, I have cited those sections of the record that address the subject matter of each objection and that support the Director's Report. I, along with staff from DPW and the Department of the Environment will be available during the Rate Board hearings to address the objections and answer any questions from members of the Board.

I. RATEPAYER ADVOCATE

As in prior proceedings, the City retained a Ratepayer Advocate who assisted members of the public as part of the rate application review process. I anticipate that the Ratepayer Advocate will attend the Rate Board hearings and may wish to speak on behalf of objectors and/or comment on his role and activities in the proceedings. I suggest that the Rate Board, objectors and other ratepayers continue to rely on the Ratepayer Advocate in his role as a liaison and advocate.

II. SUMMARY OF RESPONSE TO OBJECTORS

The sections below address each of the objections raised by the five objectors. The order of presentation is consistent with the summary of objections prepared by the City Attorney's Office.

A. Objections by Josephine Zhao

Objection 1: Ratepayers are Double-Charged

Ratepayers and taxpayers are not being double charged for abandoned materials collection. In the proposed City budget for FY 2013-14, DPW eliminated or recognized salary savings for eight positions from the illegal dumping program and redirected those resources to street cleaning programs (Director's Report, page 16). There is no overlap of services being provided by the Companies and by DPW, and

therefore no double-charging of ratepayers. Please see response to Objection 11 for additional discussion of abandoned materials collection.

Objection 2: No Option to Reduce Black Bin Volume

I commend the efforts of ratepayers to reduce the volume of trash placed in the black bin, and to embrace the City's mandatory recycling and composting ordinance. For most ratepayers, there is an opportunity to further reduce the size of the black bin. Only 18% of residential customers are using the 20-gallon cart (Exhibit 1, p. 32). I would encourage those ratepayers who haven't already done so to switch to the 20-gallon bin, provided it consistently offers adequate capacity for the household's trash. The Companies demonstrated in the hearings (Exhibit 7) that a single-family residential customer that switches from a 32-gallon black bin to a 20-gallon cart (together with two 32-gallon blue and green bins) would actually experience a *reduction* in their monthly bill, even with the new charges for each residential unit and the blue and green bins. This reduction is possible because to the Companies changed the charge for the 20-gallon bin from 77% of the 32-gallon bin rate, to 62.5% (or 20/32), making all volumetric charges proportional (Exhibit 1, Narrative Summary page 10). Under my Recommended Order, the monthly bill for a single-family residence switching from a 32-gallon black bin to a 20-gallon black bin (and with two 32-gallon blue and green bins) would decrease from $27.91 to $24.68, a savings of $3.23, or 11.6%, per month.

In addition, staff estimates that the average level of black bin service for apartments is 30 gallons per unit, significantly more than the 16-gallon minimum for apartment units (see Exhibit 96). Apartment owners may be able to significantly reduce their black bin service levels and the associated charges by re-examining the level of actual usage for trash service and reducing their service levels where appropriate.

The Companies are also exploring other service delivery models, and my Recommended Order includes a provision to expand testing of pay-per-setout (Director's Report, page 9). If successful, pay-per-setout could be expanded to other parts of the City, providing customers with an additional means of controlling their refuse rates.

Objection 3: Charges for Recycling and Composting

The Companies' rate application proposed significant structural changes in the residential and apartment rates, including a fixed charge per residential unit and charges for blue and green bins. As noted in the Director's Report (page 5), this change is necessary because of the shrinking amount of trash (black bin volume) upon which residential and apartment charges are currently levied. The Companies attribute 75% of their requested rate increase to a revenue shortfall due to a combination of migration to diversion service (i.e., recycling and composting) and the general economic downturn (Exhibit 1, page 23). Revenues to the companies have gone down as there has been less volume of trash, but the Companies have not been able to reduce service by an equivalent amount, because of the need to collect and process refuse from all three streams of refuse.

While the Companies receive some value for the materials recovered from the blue and green bins, the record shows that revenues from the sales of recycled materials and compost are insufficient to cover the full cost of collecting and processing these two material streams, which generally require the same levels of expenditure for personnel, equipment, and overhead as for trash (Exhibit 1, pp. 100-101; Exhibit 61). City staff reviewed the prices for recyclable commodities to ensure the Companies were maximizing projected revenues (Exhibit 65, page 7).

The proposed fixed charges are a step toward better aligning the rates charged with the actual cost components of residential and apartment services. The new structure also is designed to mitigate against the impact of declining trash volumes on total revenues, as San Francisco moves closer to its goal of zero

waste by 2020. While the costs of collection and processing for the three streams of refuse (trash, recyclables and compostables) are comparable, the charge for recycling and compost service is much lower than that for trash service—there is still a strong economic incentive for composting and recycling. Under my Recommended Order, the combined charges for recycling and composting bins for residential customers is 20% of the cost of an equivalent trash bin.

Objection 4: Proposition 218 Chinese Explanation Inadequate

Under the 1932 Ordinance, the Rate Board's role is to review and, as appropriate, to grant or deny, in whole or in part, a refuse company's rate application. The Proposition 218 proceedings are separate proceedings and the Rate Board has not been given authority over them. Nonetheless, I will provide responses to these objections.

The Proposition 218 notice (which was mailed to 155,056 ratepayers and/or property owners) included the essential information regarding the process and the hearing in both Chinese and Spanish, as well as instructions in both Chinese and Spanish directing recipients to the DPW web site or offices in City Hall for a copy of the entire notice in either Chinese or Spanish. DPW posted the entire notice in all three languages on its web site at the same time as the notice was mailed. DPW also posted full translations of the Guidelines for the Submission and Tabulation of Protests (DPW Order No. 181,253) on the web site, and made copies available at our City Hall office, and at the Proposition 218 hearing.

Objection 5: Lack of Multi-Lingual Outreach

DPW made broad efforts to promote the refuse rate proceedings in minority-language communities, beginning with the staff workshops in January and March, 2013, and proceeding through the six Director's hearings. Exhibit 98 provides a summary of the notifications issued by DPW, which included outreach to English-language, Chinese-language, and Spanish-language newspapers and blogs. The Ratepayer Advocate also prepared a summary of the rate application, which was translated into Chinese and Spanish and made available on the Ratepayer Advocate's web site. DPW maintained a link on its web site to the Ratepayer Advocate's web site. The Ratepayer Advocate's outgoing phone message included instructions in Chinese and Spanish on how to become involved in the process.

However, I believe that even more can be done in the next rate process to reach out to ratepayers with limited English proficiency. I will recommend more Chinese language translations of materials by the Companies, on the DPW website and by the Ratepayer Advocate. I will direct DPW staff to work with the Ratepayer Advocate to design more comprehensive and effective outreach to all ratepayers.

Objection 6: Protest Instructions not Available in Chinese

See response to Objection 4.

Objection 7: Hardship on Ratepayers

A 19.91% increase is considerable, and will no doubt be a hardship for some ratepayers. But the proposed increase in refuse rates will be the first increase since July 2010, and the first adjustment to the basic rates since 2006. Furthermore, there are ways for customers to adjust their service levels and thereby reduce their effective rate increase (see response to Objection 2). The caps on increases to the apartment rates—25% in year one of the rate order and 50% in year two—will also help mitigate rate increases while customers adjust to the new rate structure and right-size their service. For low income ratepayers, there is a lifeline rate that offers a 25% discount on base and volume charges. The Companies should again publicize the availability of this discount. Not-for-profit providers of housing for low income persons and families are afforded a discount of 10% off their bills. The Companies have already been working with customers to reduce their level of service and their monthly bills.

Objection 8: Hardship on Small Property Owners and Renters

See response to Objection 7.

Objection 9: Cost-of-Living Adjustment Unfair

Revising rates using a cost-of-living adjustment (COLA) mechanism is a standard practice in utility rate-making, and has been applied to refuse rates in San Francisco since 2001 (Exhibit 33). The formula, designed to reflect actual cost changes, is tied to known (fixed) cost increases or published indices, such as the Consumer Price Index, which also fluctuate with the economy. In addition, several of the indices are capped (Director's Report, page 12).

The COLA mechanism is a reasonable approach to adjusting rates between rate applications. In addition to saving ratepayers the cost of more frequent, time-consuming and costly rate applications and proceedings, application of the COLA formula may result in a negative adjustment to rates when indices decline. And the Director's Report provides that excess revenues from apartment customers will be returned to the rate base as part of the annual COLA adjustment process (Director's Report, page 7).

B. Objections by Stuart K. Gardiner

Objection 10: Closing the Record before June 14, 2013

The process for reviewing refuse rate applications is governed primarily by the 1932 Ordinance; I issued procedures for the 2013 rate application that conform to the requirements of that law (DPW Order No. 181,252). Per the order, the rate proceedings record consists of the documents filed by the Companies, City staff, the Ratepayer Advocate, and the public in support of their positions in marked exhibits, as well as the hearings transcripts (Director's Report, page 2). I announced at the beginning of the first hearing that the final hearing would be on May 22nd, and that I believed the six scheduled hearings would allow all issues to be raised and commented upon by all parties. I stated that if necessary, other hearings would be scheduled to gather information necessary for me to issue my report and recommended order. The record for these proceedings was closed at the conclusion of the final Director's hearing (May 22, 2013) so that I could consider all of the evidence in preparing my Report and Recommended Orders (Tr. p. 836).

There was a separate process under Proposition 218 relating to the Companies' application for a rate increase. Proposition 218, passed by California voters in 1996, provides that to increase a property-related fee, local governments must notify information relating to the fee to all property owners, hold a hearing at least 45-days after the mailing, and reject the fee if written protests are presented by a majority of the affected property owners. I issued guidelines for the submission and tabulation of protests that conform to the requirements of Section 6 of Article XIIID of the State Constitution (DPW Order No. 181,253). I held a separate hearing on June 14, 2013, to consider written protests, and to determine whether the majority protest was achieved. The record of the Proposition 218 hearing includes the transcript and the written protests and is available to the Rate Board, but should not be confused with the record of the rate proceedings, which includes the 100 exhibits listed in the Director's Report (Appendix A).

While the two DPW orders clearly state that the procedures under the 1932 Ordinance and Proposition 218 are separate, I agree that the two proceedings may have created some confusion among members of the public. But I believe the notification for both proceedings met or exceeded the requirements, and that members of the public were given ample opportunity to participate in the proceedings and express their opinions with respect to the 2013 rate application. Prior to the next rate process I will work with the Companies and the City Attorney's Office to see if there are ways that we can make these dual legal requirements clearer.

Objection 11: Inclusion of Abandoned Materials Collection Program and Public Litter Can Maintenance

The issue of whether abandoned materials collection and other refuse-related services provided by the City should be included in the refuse rates was addressed specifically in rate processes in both 2010 and 2012. In those proceedings, DPW provided evidence justifying the eligibility of these services and the benefit to ratepayers; much of the evidence was reintroduced in the current proceedings (Exhibits 14, 15, 16, and 17). In both the 2010 and the 2012 proceedings, the Rate Board affirmed the conclusion of the independent hearing officer. In the 2012 proceedings, the Rate Board also suggested that the City consider whether some of these activities should be performed by the Companies rather than the City, and the 2013 rate application reflects that suggestion.

The collection of abandoned materials, whether performed by DPW or the Companies, is a legitimate expense to include in the rate base. While all residences and commercial premises are required to have adequate refuse services, a survey of the abandoned materials collected from San Francisco's streets and public areas suggests that these materials (including mattresses, appliances, electronics, furniture, and other large items or bags of trash) predominantly are coming from those same residences and businesses, and are not being brought into the City from other locales. The Companies offer a number of services for customers to dispose of their unwanted items, including bulky item recycling (RecycleMyJunk.com) and district cleanup events, yet some customers continue to leave materials on the streets. Including the relatively small cost of abandoned materials collection in everyone's rate is similar to inclusion of bad debt in the rate base, in that bad debt is to pay for service that is provided but which is not paid by the individuals who receive those services. The Companies include bad debt as a recoverable expense (Exhibit 1, pp. 48 and 103).

The objector claims that shifting the costs of these programs from the City to residential ratepayers is arbitrary and capricious and not based on factual record evidence. On the contrary, there has been extensive factual evidence introduced, including an analysis of which classes of ratepayers are responsible for abandoned materials from 311 call data (Exhibit 17). The cost of these programs is recovered from all ratepayers, residential and commercial. The benefit too is to ratepayers in that they are not required to pay for removal of refuse left on the sidewalk fronting their properties.

Based on the evidence presented, I concluded that the Companies could collect abandoned materials more effectively and would be able to achieve greater diversion than the current City program, thereby saving limited landfill capacity (Director's Report, page 11). I also established financial incentives for the Companies to meet their response-time goals. In addition, the application includes funding for a new program within DPW (Education, Compliance and Outreach) to combat illegal dumping; with these additional resources, I hope to reduce the volume of abandoned materials and instill an ethic of more responsible behavior.

With respect to public litter receptacles, the Companies already collect from the approximately 3,000 receptacles located throughout the City at least once a day (on weekdays) and often more frequently. The Companies proposed to assume replacement of the doors and liners with existing personnel *at no extra cost to the ratepayers* (Exhibit 1, page 14). DPW would continue to provide the doors and liners, as the receptacles are public property.

The issues of abandoned materials, public litter receptacles, and DPW's solid waste management services in general continue to generate considerable public comment and discussion. As stated in my report, I believe that these policy issues are more appropriately addressed by the Mayor and the Board of Supervisors through the annual budget process (Director's Report, page 23). I also welcome the guidance of the Rate Board.

Objection 12: DPW Director has a Conflict of Interest

As the hearing officer, I considered all of the facts presented to me in these proceedings. Included in the evidence presented was the report of the 2012 independent hearing officer (Exhibit 14) which found that the cost of certain DPW street cleaning activities, clean up of illegally dumped materials, and the transportation of materials to the transfer facility where a portion of them could be diverted, were appropriately included in the rate base. Reports prepared by independent consultants for the San Francisco Local Agency Formation Commission in 2011 and DPW in 2013 show refuse rates in many other Bay Area communities pay for services similar to those included in San Francisco rates (Exhibits 15 and 42). Exhibit 15 also shows a number of communities in which street sweeping is provided through refuse rates, which is not proposed in San Francisco. I also considered the testimony of a number of concerned citizens and exhibits presented that questioned the appropriateness of including these cost in the rates (Exhibits 40, 99 and 100).

The concern that the DPW Director cannot be an impartial hearing officer was addressed in the staff report (Exhibit 65, page 32, response to public comment #35). A conflict of interest would arise only if the Director had a *personal* financial interest in the decision, which is not the case with refuse rates. I'd like to point out that the allocation to DPW is less than 2% of the collection rate. Nevertheless, the 1932 Ordinance provides for the Rate Board to serve as a check on the Director's decisions.

C. Objections by Kermit R. Kubitz

Objection 13: Inclusion of Abandoned Materials Collection

See response to Objections 11 and 19.

Objection 14: Special Reserve is Overfunded

The use of funds in the Special Reserve is governed by the Facilitation Agreement, which is part of the long-term contract to dispose of solid waste at the Altamont landfill (see Exhibit 14, page 3, for a summary of the Special Reserve). Appendix E of the Director's Report includes the Special Reserve Fund Procedures.

According to the Facilitation Agreement and procedures, funds may be used only to pay for "extraordinary expenses…under the Waste Disposal Agreement." To date, there have been a limited number of withdrawals to pay for improvements at the Altamont landfill required by new environmental regulations and changes in state requirements for the disposal of electronic waste (Director's Report, page 18).

The Facilitation Agreement will expire concurrent with the expiration of the Waste Disposal Agreement between the City, Recology San Francisco, and the Oakland Scavenger Company (now Waste Management of Alameda County). The Special Reserve Fund Procedures specify that "If, not later than five years after the expiration of the Waste Disposal Agreement, the Rate Board determines there is no need for the Fund, the remaining monies in the Fund shall accrue to the benefit of the residential ratepayers and the commercial accounts of the companies" (Director's Report, Appendix E).

While the existing funds cannot be taken out of the Special Reserve Fund until the Waste Disposal Agreement has been terminated and the Rate Board has determined there is no further need for the Fund, several steps are being taken to stop the build-up of excess funds in the Special Reserve. In 2010, the 1.3% surcharge was redirected from the Special Reserve to the Impound Account; this year, I recommend that the 1.3% surcharge be discontinued altogether (Director's Report, page 18).

Objection 15: Growth Rate for Residential and Commercial Customers

Although the number of residential, apartment and commercial customers has grown since RY10 (Exhibit 1, p. 46), the Companies showed that total revenues, including revenues from these additional new customers, have not increased (Exhibit 6), and that tonnage generated also has been on a downward trend since 2010 (Exhibit 49).

City staff spent a considerable amount of time examining the assumptions underlying the Companies' revenue estimates, and recommended increases in both the residential and apartment revenue projections (Exhibit 65, page 6). Staff submitted evidence of additional housing units coming onto the market in the near-term (Exhibit 67) and calculated the revenue associated with those new units.

In the hearings on the staff report, City staff acknowledged that they had not accounted for the additional collection and disposal costs for some new apartment units, but introduced additional evidence of new housing units (Exhibit 96). In my report, I included revenues for the new housing units at the minimum service level, and included the incremental cost of the additional tons associated with those new units (which are both commercial and residential customers, but for simplicity were treated as if they were all residential customers). I concluded that the new customers represent only a marginal increase in the total number of customers, and could be served by existing collection routes (Director's Report, page 6).

D. Objections by Nancy Wuerful

Objection 16: Just and Reasonable Standard not Defined

The 1932 Ordinance states that rates be "just and reasonable," a standard that is commonly used in utility rate-setting and regulation. The standard does not require the regulating agency to employ a particular formula or process. As noted in the staff report (Exhibit 65, page 32, response to public comment #35), under the 1932 Ordinance, the Director follows a carefully constructed public process, during which the application is thoroughly reviewed. The rates are based on the Companies' actual costs for services necessary to collect and process residential and commercial refuse; those costs were validated by City staff and expert consultants (Director's Report, page 2); in a number of cases, City staff recommended adjustments to both cost and revenue projections (see Exhibit 65, page 3, for a summary of staff recommended adjustments).

The Companies provided a survey of rates imposed by other similar jurisdictions (Exhibit 35). This information is useful for comparing where San Francisco's rates stand relative to other communities, but does not constitute the standard for whether the proposed rates are "just and reasonable." The survey is also a snapshot in time, and will change as other communities adjust their rates to reflect changing costs and decreases in revenue (trash) service. I am confident that the rates reflected in my recommended orders are based on solid evidence, reflect the actual costs for collecting and processing San Francisco's refuse, and protect the ratepayers.

Objection 17: Public Costs Shifted to Refuse Rates

As discussed in the response to Objection 11, the costs for collection of abandoned materials should not be considered public costs, but rather costs for collecting solid waste generated by ratepayers, albeit those who are not complying with City codes. DPW has consistently followed the procedures specified in the 1932 Ordinance when requesting funding from the refuse rates. In 2010 and 2012, DPW filed an application to fund a portion of the department's street litter program and removal of refuse from City streets from the 1.3% surcharge on volumetric billings then in place. To ensure an objective review, the Chair of the Rate Board appointed an independent hearing officer to review the applications (Exhibit 14). In both applications, the Rate Board affirmed that the DPW activities were eligible for funding from the refuse rates.

The 2013 application includes transferring the abandoned materials collection program from DPW to the Companies (Exhibit 1, page 13). The rate proceedings provided an opportunity for a full review of the proposal, including discussion among the Companies, City staff, the Ratepayer Advocate, and members of the public. In the staff report, DPW indicated that any future proposals to increase the amount funded from refuse rates would be discussed in public workshops first (Exhibit 65, page 30, response to public comment #20). I also addressed this question in my report (Director's Report, page 23).

Objection 18: Windfall to DPW

See response to Objection 1.

DPW provided the Mayor's Office and the Board of Supervisors with a full description of the department's proposed use of funds that would become available when the Companies assume responsibility for collection of abandoned materials (Director's Report, page 16). The department's budget request was subject to the full review and approval of the Board of Supervisors.

Objection 19: Abandoned Materials Collection at Higher Cost

The Companies provided an exhibit detailing the cost of the abandoned materials collection program, presenting an annual cost of $3.6 million (Exhibit 41). DPW's memorandum on funding included in the rate application indicated that the department spent $2.2 million on abandoned materials collection in FY12 (Exhibit 13). But the two figures are not directly comparable. As noted in the DPW memorandum, the incremental cost of supervisors, dispatchers and administrative staff was not included in DPW's abandoned materials collection budget, nor was the cost of processing at the transfer station.

The staff report also concluded that the Companies' proposed utilization of two trucks per zone (rather than one packer truck) could result in higher service levels, as the trucks can operate independently depending on the materials to be collected (Exhibit 65, page 11). By operating the program in a similar manner to the Bulky Item Recycling program (with box trucks for mattresses, electronics, appliances, and other potentially recoverable items), the Companies anticipate generating greater diversion of materials than DPW can achieve with a single packer truck on each route.

The Companies will be allowed to earn a profit on this service, applying the same operating ratio as for other expenses. As noted in my response to Objection 11, I have proposed financial incentives for the Companies to meet their response-time goals, which essentially puts some of this profit at risk. During the hearings on the staff report, the Companies raised concerns about the number of calls and volume of materials that they would be responsible for under the new program, and that they could be penalized unfairly. The Companies proposed revisions to the incentives (Exhibit 83), but I adopted the staff recommendation, with minor revisions to account for any significant increase in call volumes (Director's Report, page 12).

Please see response to Objection 11 for additional discussion of abandoned materials collection.

Objection 20: DPW Director has a Conflict of Interest

See response to Objection12.

Objection 21: Refuse Fines Deposited to General Fund

As was reported in the staff report, staff is working on legislation to allow the revenue to be applied to the benefit of the ratepayers (Exhibit 65, p. 30). I anticipate that most penalty revenue collected by DPW will be as a result of citations issued by new outreach and enforcement staff funded through the Impound Account. However, some citation revenue will still be collected as a result of citations issued by DPW

staff paid out of the General Fund and issued for offenses such as graffiti that are not related to refuse service or illegal dumping. Thus, staff must work with the Controller's Office to determine the mechanics of such a transfer, and the City Attorney's Office to draft legislation. I intend to introduce an ordinance to the Board of Supervisors to deposit penalty revenue into the City's Impound Account subfund, and to return this revenue to ratepayers through the annual rate adjustment process in the same way that unearned Zero Waste Incentive funds are returned to them. If this approach turns out to be unworkable, I intend to account for these revenues and credit them to the rate base in the next rate process.

I would like to add that the primary purpose in expanding our outreach and enforcement activities is not to collect revenues. Rather, it is to improve compliance with City codes requiring adequate refuse service and prohibiting illegal dumping. If these efforts are successful, more customers will be subscribing to adequate refuse service, more revenues will flow into the system, and less expenditure will be necessary to collect abandoned materials, thus reducing the size of future rate increases.

E. Companies' Objection

Objection 22: Recovery of Operating Ratio on Brisbane License Fee

The Director's Report concludes that while the new Brisbane fee for recycling establishments is an expense that should be included in the rate base, it should be a pass-through expense on which the companies should not earn a profit, or Operating Ratio (OR). The Companies argue that the Brisbane recycling fee should be treated as one of the usual and ordinary operating expenses of their facility, with all of the attendant risks of profit and loss, and as such should be treated as an operating ratio expense. They also argue that there is a risk that the Brisbane City Council could at some point decide to increase the fee, and that such risk further justifies application of OR to the fee.

I believe the risk that the Brisbane fee will be increased is very low. The Brisbane City Council chose to impose a graduated annual business license fee, and set a range of between 100,000 and 500,000 tons of material for the $2.1 million fee (Exhibit 32). The Companies processed 155,543 tons in Brisbane in RY12 and project 161,963 tons in RY14 (Exhibit 1, p. 106), nowhere close to the top of the range adopted by the Brisbane Council. In testimony at the Director's hearings, the Companies stated that they do not anticipate that processing would exceed 500,000 tons until after a new integrated zero waste facility is constructed and also that the graduated fee schedule was the result of discussions between the Companies and the City of Brisbane (Tr. pp. 161-163). The Brisbane resolution expires in June 2016, approximately the same time that the Companies anticipate they will commence construction on their zero waste facility, indicating that 2016 is the point in time when Brisbane islikely to consider a change in the fee. The Companies have indicated that they will probably return for a rate adjustment in a similar time frame. The Companies also are protected from losses because the Brisbane fee is adjusted annually for changes in the CPI through the COLA adjustment mechanism included in the proposed rate order.

Finally, the Companies argue that the fee should not be treated simply as a pass-through expense because they *elected* (emphasis from the Companies' letter of objection) to construct a portion of their recycling facility in Brisbane, whereas they did not elect to dispose of refuse in Alameda County where the fees that they pay are excluded from OR (because, they argue, it was the *City* that entered into the Alameda County waste disposal contract). It is not clear to me how this distinction changes the fact that the Brisbane fee is a pass-through expense, not unlike many of those expenses that other jurisdictions exclude from calculations of OR, as described in the Operating Ratio study commissioned by the City (Exhibit 66). Nor is it clear that a change in the fee charged by the Waste Management Authority of Alameda County, also $2.2 million in RY14, would rise to the level of an extraordinary expense that could be reimbursed from the Special Reserve Account (see Director's Report, Attachment E, Special Reserve Fund Procedures) as is claimed by the Companies.

Thank you for your consideration of these responses. I look forward to assisting the Rate Board with its deliberations.

Sincerely,

Mohammed Nuru
Director of Public Works

cc: Douglas Legg, DPW
Melanie Nutter, David Assmann, Robert Haley, SFE
Tom Owen, Marie Blits, City Attorney's Office
Peter Deibler, Ratepayer Advocate
Objectors