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THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION

CAPA HEARING

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Held remotely via
Web-Ex Videoconference

April 28, 2022
10:33 a.m.

Reported by:
Elbia Baires

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A P P E A R A N C E S:

SHORMINA AHMED
Executive Agency Counsel, BIC

NICOLE MATHIAS
Director of Policy, BIC

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MS. MATHIAS: Good morning and thank you for participating in today's public hearing. The time is 10:33 on Thursday, April 28th, 2022. My name is Shormina Ahmed. I'm executive agency counsel of the New York City Business Integrity Commission. The Commission is conducting this hearing pursuant to the requirements set forth by the City Administration Procedure Act, commonly referred to as CAPA.

The purpose of this hearing is to receive comments from the public on the Commission's proposed rules regarding the amendment of maximum rates allowed for collecting and disposing of trade waste.

The Commission published the proposed rules in the City records on March 23, 2022. We also disseminated a copy of the rules via e-mail to all New York City local elected officials, all 59 community boards, several media organizations in the city and other

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interested parties. Lastly, we posted the proposed rules on both the Commission's and the New York City Rules' website.

In summary, the Commission is proposing to amend Title 17 of the Rules of the City of New York to raise maximum rates that private carters could charge for the removal of trade waste by 9 percent. As background for this hearing, the Commission is authorized to set by rules the maximum rates by weight and by volume that trade waste haulers can charge for the removal of putrescible and traditional recycled commercial waste. The maximum rates were previously adjusted in 2018.

The Commission must base any changes to the maximum rates on a fair and reasonable return to the carters who provide trade waste removal services to commercial establishments in New York City, while also

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protecting those using these services from excessive or unreasonable changes. To achieve this balance, the Commission established an administrative procedure that provides greater transparency, and standardization in the rate setting process.

Pursuant to the Commission rules, a hearing was held on September 23, 2021, relating to the maximum rates charged by private carters for the collection, removal, disposal and recycling of trade waste.

The hearing was attended by representatives of the trade waste industry and other interested parties, some of whom testified at the hearing and submitted written testimony. The Commission has carefully evaluated the evidence provided throughout the process, including the oral statements made at the September 23rd hearing, and the written statements submitted

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both prior to and after the hearing.

In accordance with Title 17 of the Rules of City of New York, Section 5-02(g), the Commission has reviewed various relevant factors affecting the trade waste industry and its customers. Those factors include, but are not limited to the producer price index published by the U.S. Department of Labor Bureau of Labor Statistics, data contained in private carters' financial statements filed with the Commission, and certain data relating to increases in operating and capital costs provided to the Commission by members of the trade waste industry.

Based on its review, the Commission proposed to increase the rates by 9 percent to current maximum rate that trade waste haulers can charge from \$20.76 per cubic yards and \$13.62 per 100 pounds, to \$22.63 per cubic yard and \$14.85 per 100 pounds.

That concludes the summary of

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2 the -- at issue at this hearing. You
3 may present an oral statement for the
4 record or submit written comments
5 concerning the proposed rule changes.
6 Additionally, the Commission has been
7 accepting written comments in the
8 proposed rules since the publication
9 in City Record and will continue to do
10 so through the close of business
11 today. The Commission will make
12 available a copy of any written
13 comments that were received in
14 connection with today's hearing on its
15 website. The Commission will
16 carefully review and consider all
17 comments and submissions and make
18 changes if the Commission deems them
19 necessary.

20 The rules will go into effect 30
21 days after they are published in the
22 City Record. We will begin calling
23 any one of you who wish to speak this
24 morning. When you speak, we ask that
25 you state your full name and

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affiliation and speak slowly and clearly so the court reporter can understand and accurately transcribe your statements. We ask that you limit your statements to three minutes.

And Nicole Mathias will now begin calling on those members who wish to speak and testify.

MS. MATHIAS: Good morning, everyone. This is Nicole Mathias, director of policy at BIC. We haven't received too many sign-ups to speak, so we are going to go through those folks first, and then I will open it up to anyone else who would like to speak. Please keep yourself muted if you are not speaking so everyone can hear.

First up is Lew Dubuque from NWRA.

Are you here?

MR. DUBUQUE: PPP yes. I'm here.

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MS. MATHIAS: Great. The floor is yours.

MR. DUBUQUE: Great. My name is Lew Dubuque. And I'm the new vice president of the northeast or National Waste and Recycling Association. NWRA represents quite a sector in the waste and recycling industry. Our association members conduct business in New York City and in all 50 states, and includes companies that manage waste collection, recycling medical waste, equipment manufacturers and distributors and a variety of other service providers.

NWRA represents the hard-working men and women of the Chapter. This Chapter who collect and manage the waste produced by the 100,000 plus commercial entities of this great city.

I'm here today to discuss the proposed 9 percent increase of the rate cap on solid waste licensees.

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While it's nice that there will be an increase for the first time since 2018, it is far from enough.

First, though, I'd like to reiterate NWRA's longstanding request since its series began, which is to eliminate the rate cap completely. It's obsolete and outdated and should be done away with. But these trade waste companies that are fully vetted and licensed work at a pricing system that works best for them and their customers. But if the rate cap is to be kept, we will continue to push for a minimum rate at which the low waste recyclables and organics cannot be collected and managed in the City without sacrificing safety.

This continual race to the bottom exacerbates our members' best efforts to improve service with better equipment, drivers and standards for the industry.

Our members have invested

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heavily in improving service to our customers, specifically during these challenging times. This is all on top of a new regulatory cost imposed by the City, for such things as safety side guards, new trucks with less emissions and most recently, the BIC's new safety regulation implementation.

The producer price index for solid waste collected is up 20 percent since 2017, making the BIC's rate cap increase of 90 percent not only detrimental to our members' companies, professional and viable, but a rebuff to companies who are frontline essential workers during the early days of the pandemic.

It is clear from its rate change notice that the Commission is asking our industry to absorb higher operating cost because other industries may have been impacted by the pandemic. It is not fair nor equitable. Our industry has been

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impacted along with every other business. And after four years since the last rate increase, we should not be asked to shoulder this burden.

Collecting waste and recyclables is a huge task done every day. Our members do it in good weather, bad weather, and during a pandemic not seen in this country in over 100 years. We continue to be good corporate citizens and work as safely as possible in the neighborhoods and the communities in which we serve.

Over the last two years, our members have been front and center, running our City trade waste system as an essential industry in the COVID-19 crisis. Our members and their employees and customers have all suffered severe physical health and financial duress during this pandemic, as have so many others. Going forward, we will continue to put the needs of the trade waste providers

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front and center.

NWRA reiterates our calls from last September's hearing, to provide two separate increases; one immediately for 12 percent and one in January of 2023 for five percent.

I'd like to thank you for the opportunity to speak with you today and look forward to continuing our relationship with BIC in advocating on behalf of New York City's private sector waste industry.

Thank you very much.

MS. MATHIAS: Thank you for your testimony.

Andy Moss from Waste Connections, did you want to speak? No pressure. I can open it up if not.

MR. MOSS: Good morning, Nicole. I will say that -- I just want to reiterate what Lew just said, that we understand that the BIC is trying to balance the needs of the greater City versus the true cost incurred by waste

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and recycling companies. But essentially, the City is asking us to subsidize the rest of the commercial sector and it's -- as Lew stated, it's not equitable and it's not fair.

And so we would urge, if by any means, if you look at all the various indices, including the Department of Sanitation's very own proposed index in its commercial waste plan, the 9 percent -- the proposed 9 percent pales in comparison. The true increases that our industry has incurred has been upwards of 20 percent. Nine percent just isn't even half.

Thank you for your consideration.

MS. MATHIAS: Thank you, Andy.

Is there anyone else on the call who would like to testify?

(No response.)

MS. MATHIAS: Going once, going twice --

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(No response.)

MS. MATHIAS: Okay. Seeing that there's no one else looking to testify, we will now close the record for this hearing.

As a reminder, we will continue to accept written comments through the close of business today and all comments will be posted as soon as possible on our website.

This hearing is now closed. The time is 10:43 a.m. Thank you. And take care everyone.

(TIME NOTED: 10:43 a.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

:SS

COUNTY OF SUFFOLK)

I, Elbia Baires, a Notary Public within
and for the State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter, and that the within
transcript is a true record of such proceedings to
the best of my ability.

I further certify that I am not related
to any of the parties to this action by blood or
marriage; and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 9th day of May, 2022.


Elbia Merino (Baires)