

Testimony
of
Waste Connections of New York, Inc.
On the
Biennial Review
of the
Business Integrity Commission
Rate Cap for Commercial Trade Waste

Submitted to the
New York City Business Integrity Commission
Honorable Noah D. Genel
Commissioner/Chairman

By
Andrew Moss, Government Affairs Manager
Thursday, September 23, 2021



WASTE CONNECTIONS
Connect with the Future®

Good morning and thank you for the opportunity to appear before you today. Waste Connections of New York, Inc. (“Waste Connections”), respectfully submits the following testimony regarding a regulatory increase to the rate cap of \$20.76 per cubic yard or \$13.62 per 100 pounds currently in effect today. We note that the COVID-19 pandemic delayed the previous rate cap review even though testimony was given and a public hearing was held. As that process was never technically completed, we believe an immediate rate cap increase can be given now pursuant to that hearing. The Commission can then pursue a further review after hearing this new testimony.

Waste Connections is the only operating subsidiary of a New York Stock Exchange listed, publicly traded company that collects garbage and recyclables in New York City. Waste Connections and its affiliates together form the third largest non-hazardous solid waste management company in North America, with operations in 44 states and six Canadian provinces. Within these North American jurisdictions, in all of the non-franchised, commercial markets in which we operate, vigorous competition between corporations creates the natural incentive to provide customers with high quality service at an affordable rate. If a prospective customer does not like the service we provide or the price we charge, he or she can simply look for another service provider. These market forces will govern even in the City’s new commercial waste zone system, where there will be between two to seven other carters to choose from.

Market forces drive company and customer behavior. The rate cap has two main distorting effects. As everyone is aware, it costs money to hire high quality workers and purchase our trucks. Every expense our company incurs is ultimately paid for by our customers in the form of revenue. If one customer’s price is limited by regulation as to how much can be charged, another customer’s price may be distorted to help subsidize that capped customer. The other

distorting effect is on recycling. Historically, recycled goods have more value than garbage. If we were allowed to charge market rates for garbage, an incentive to recycle would naturally drive up recovery rates for recycled items as customers would look to save money.

There are other aspects of the rate cap that impact our ability to provide specialized customer service. For instance, we cannot charge for specialized services such as weekend or holiday collections. While a customer cannot be billed for these extra days, we still pay our workers double their hourly rate to provide services on these days. Another example is when a customer requires us to go into his or her building to bring the garbage out to the curb; we cannot charge for that extra service either. The hard cap stifles innovation and promotes marketplace inefficiencies. A customer cannot be charged extra for a paper rather than an emailed invoice, which is the practice in many other industries. A customer also cannot be charged extra for sending a hand collector to receive his or her payment. Finally, the rate cap does not allow for line item charges such as fuel surcharges that other transportation industries charge their customers. We already are required to have our invoices approved by the Commission. The answer should be to let us line item all our services and let the customers decide what they need and what they want to pay for. Disclosure and flexibility is the answer, not a hard rate cap.

Today, we are here to provide testimony that demonstrates how our operating expenses have increased since the last August 2018 rate cap increase. In prior years, I have broken our testimony into three parts: cost of operations, capital expenditures (the equipment we need to operate) and regulatory compliance costs that impact our operating expenses. For this review, I will still mention those points but must first begin with inflation and its effects on the entire economy. The latest reports for the producer price index show an 8.3 percent annual inflation rate, the highest rate since 2010. The Consumer Price Index has all changed by an equal amount

since the last rate cap increase in August of 2018. This does not contain August 2021, which is sure to boost that number higher. Moreover, the Federal Bureau of Labor Statistics publishes the Producer Price Index for the Solid Waste Collection Industry. This index has increased by a fraction under 10 percent since the last rate cap increase. Again, this number does not include August of 2021 which will make the increase even higher.

<https://fred.stlouisfed.org/series/PCU562111562111>

As to the rate cap, we have approximately 8,570 customers we service of which 3,616 are now at the rate cap; a 42.2% percent figure which is a significant number and the highest we have ever had.

Cost of Operations:

Union Wages: We provide good paying jobs for our hard working union employees. Their wages, as per our collective bargaining agreements, have increased by a total of 6.1% over the past three years.

Benefits: For our union employees, our welfare fund contributions increased a total of 4% since 2018. Our pension fund contributions have also increased by 3%.

Tolls: Tolls for the Metropolitan Transit Authority administered bridges and tunnels have increased by 17% since 2018. Specifically, the Robert F. Kennedy Bridge, the Throgs Neck Bridge, the Bronx-Whitestone Bridge, the Hugh L. Carey Tunnel, and the Queens Midtown Tunnel.

Postage: On January 27, 2019 the price of a first class postage stamp increased from \$.50 to \$.55, a 10.0% increase. On August 29, 2021, the price increased again to \$.58, an overall 16% increase. We communicate with thousands of customers each month through the Post Office.

Other Expenses: As with most New York City real estate, the rent for the properties where we store and maintain our trucks has increased three percent per year since 2018, which calculates to 9.3% compounded.

Capital Expenditures:

Trucks: The cost of a 32 yard rear load packer rose from \$368,218.10 in 2018 to \$381,814.22 in 2020, an increase of 3.7%. 2021 has seen a significant rise in the price of new and used passenger vehicles. We believe that the same factors impacting automobile prices will impact waste collections vehicles. Moreover, as we state on our company website and have repeated at the BIC Safety Symposiums, for Waste Connections, safety is our number one corporate value. That is why on every new truck we purchase, we add additional safety features that cost more than a simple garbage truck. Our trucks are mounted with high intensity lighting packages, side guards, and Qwik-Tip automated loading systems, which save on the wear and tear of our workers. We believe these safety investments, along with the training in their usage, are vital in what we all know is a very dangerous occupation. On a side note, we believe as a company that these safety features and equipment should be required for all licensees. There is only one way to pay for these improvements and that is through the rates we charge our customers.

Regulatory Compliance:

Local Law 145: As the Commission is aware, Local Law 145 of 2013 required 2007 emissions standards for all commercial waste vehicles by 2020 and resulted in an accelerated capital investment for our company to meet this mandate. In an ordinary year, Waste Connections purchases five new trucks as part of its fleet maintenance program. In order to be in compliance with Local Law 145, Waste Connections purchased an additional 30 new trucks over

a two year period, a capital investment of over \$11,000,000. For perspective, for every \$370,000 garbage truck, it takes almost \$2,500,000 in gross sales revenue for a company earning a 15 percent operating margin to recover the cost of that truck. Keep in mind that our generated revenue also has to pay for salaries, rent, insurance, and all the other costs of running a business. Given the capital expenditures not just needed but mandated, the amount of revenue required to be collected to pay for these investments is enormous.

Safety: We strongly endorse Vision Zero's goal of reducing traffic deaths to zero. The addition of more bike lanes, and the additions of more vehicles on the roadways due to the pandemic's impact on public transportation, has made collecting waste and recycling an environment where we have to operate ever more slowly and increase our operating time.

As mentioned above, 42.2% of our customer base is at the rate cap. These customers, frankly, have no incentive to produce less garbage since they can't be charged any additional fee. If their rate is allowed to increase, they may decide to become more diligent about recycling. Of course, they are free to seek another carter to serve them at a lower cost. The result is a more efficient market place. As my testimony has shown, not only have our operating expenses increased, but we faced a legislated mandate to spend money on new equipment. There is only one way to pay for this equipment and that is through the rates our customers pay for the services we provide. It is time for the rate cap to either be eliminated or substantially increased.

I am happy to provide the Commission with any and all documentation supporting what I have discussed here today. Thank you for your time and your consideration.

My name is STEPHEN BELLINO; I am one of the owners of Liberty Ashes, and the second generation in this family business of approximately 65 years. My comments are intended to support a significant increase in the city-determined "rate cap" as it applies uniquely to the industry that provides waste collection and recycling services to New York City businesses.

More broadly, I also support elimination of the archaic and out-dated rate cap system; it was established during a much different period when competition was inhibited by external factors, which led to the adoption of Local Law 42 (1996), which has largely achieved its goals.

In fact, for the last twenty years the city's commercial waste industry is highly competitive; that competition helps to keep prices in check, and service levels high. Nearly every other legitimate business can raise or lower pricing at will subject only to market conditions and customer responses; if the price is too high, or the service unsatisfactory, the customer can take their business elsewhere – which happens every day because of the competitive aspect of our industry. If external costs increase, e.g., fuel, a collapse in recycling markets, higher disposal costs, etc., the rate cap system inhibits their recovery.

Therefore my first recommendation is to do away with the outdated rate cap controls; the current rate cap has not been updated in three years to reflect dynamic factors in our industry, including expanded requirements for recycling and organics, and previous adjustments to the rate cap were usually delayed.

Three examples of how dynamic costs in this industry should affect an increase in or elimination of the rate cap:

First, paying labor higher wages, and other service-related costs. Like many other sectors, labor shortages – especially of CDL drivers – are pushing up wages.

Second, meeting the policy goals of New York City, such as upgrading obsolete equipment – especially newer, cleaner, and more expensive trucks – including the eventual adoption of electric trucks. Insurance costs also have increased in response to city requirements.

Third, rising disposal, recycling and organics processing costs.

Overall, the rate cap system inhibits innovation from this industry, which is constantly asked to do more with less resources. We need to stay current with the consumer price index, which rate controls unfairly restrict. Allowing us to adjust rates properly to the current market conditions will achieve these goals and NYC's goals of reducing waste and recycling more.

Finally, the uncertainty associated with the city's delayed and protracted attempt to implement the commercial waste zone system also argues for eliminating the rate cap system, as it will certainly be replaced by long-term contracts negotiated with DSNY, which likely will have substantially higher pricing in response to even more requirements contemplated by DSNY's proposed Rules.

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Thank you for your consideration.

Testimony of Thomas N. Toscano, CEO of Mr. T Carting Corp., on the BIC Rate Cap

My name is Thomas N. Toscano, and I am the CEO of Mr. T Carting Corp., a third-generation family business that has served the New York City waste and recycling market for more than seventy-four (74) years.

There are three key costs to picking up waste and recycling in the City. There is the disposal or dumping costs, the labor costs, and the equipment costs that include fuel.

The rate cap was last increased in the summer of 2018. From then until now, carters have been purchasing trucks to update their fleet to the standards under LL 145. These costs have increased significantly above the inflation rates for that reason. In addition, diesel fuel costs are at a 5 year high and continue to increase. These costs factor into the dumping rates that I will discuss. In short, during the past 3 years, my company has seen truck costs increase by nearly 20%.

During that same 3 years period, our disposal costs are up just over 12% and I expect a jump shortly. Disposal is closely tied to fuel prices that, as I mentioned, are climbing. I expect this cost to track higher at more than 5% annually because of fuel.

Lastly, and most importantly, are labor costs. In a typical year labor costs increase 3 to 4%. The last few years have been far from typical. For decades, the minimum wage was under \$10 per hour. Drivers and helpers in our industry were typically 3 or 4 times what the minimum wage was and it was not a factor. When the minimum wage was raised to \$15 an hour, we did not have to raise a single driver or helper to comply with the law. The issue is that sanitation jobs are very difficult jobs. You will not attract someone who can work at Starbucks at \$15 per hour to work nights, outside, in all kinds of weather, in an extremely physical job for a few dollars more than minimum wage. There must be a significant differential to draw them into this industry. Further, there is a nationwide CDL driver shortage that is attracting people out of this industry. Again, sanitation jobs are difficult jobs where you get in and out of a truck hundreds of times a night unlike most other CDL jobs. All these factors are converging to drive up wages more than any other cost and I expect an overall increase in this cost of 10% per year for the next few years.

Two years ago, the BIC started the process of reviewing the rate cap and, despite the laws of the City requiring the BIC to make a determination, no determination was ever made. That process is still open

Testimony of Thomas N. Toscano, CEO of Mr. T Carting Corp., on the BIC Rate Cap

and the BIC can give an increase immediately to finally finish that review. I am recommending that the BIC immediately increase the rate cap by 20% to finish the process started in 2019. After that, the BIC can further study the issue, to comply with its 2021 obligation, to see if a further increase is necessary.

Regulations and oversight of this industry have increased dramatically over the past three years. The carters have not seriously opposed the major concerns of the BIC aside from asking minor changes in how to achieve those goals. A lot of those regulations are expensive, particularly the equipment costs. The increased safety enforcement has driven some drivers out of the industry and while I am not asking for a reduction in those safety rules or enforcement, realize that if you raise the bar for drivers you must also raise the compensation to attract more and better drivers into the industry. In addition to this, the looming commercial waste zone RFP has all but insured there will be no new entrants into the market on the carter side. I fear the City is setting up a perfect storm scenario when you put all this together. If a brand new employee comes into this industry and does everything right, he or she will not be driving a truck for at least a year. Making a mistake now in not giving immediate rate cap relief cannot be undone later by simply raising the cap. There is a significant lead time in getting drivers. There will be some accounts that cannot get service. As an example, we recently dropped an account that required us to ring a bell and wait for the account to bring down garbage. This stop typically took 15 minutes where a typical stop takes less than a minute. If you squeeze my company by holding my revenue line and raising my costs, I will not get accounts like this. Time stops are another example of difficult accounts that will have trouble finding a carter. Add the fact that traffic is now beyond the pre-pandemic levels, which shrinks the window where you can send out a truck. Certain areas may have difficulty as well, likely densely populated Manhattan and downtown Brooklyn. A failure to act quickly in increasing the cap could be very detrimental to the City. In 2009, the City added a weight based cap to the rate cap scheme when a very large account could not find a carter. That problem was rectified very quickly. For the reasons stated above, an emergency rate cap increase in the future will not fix this situation anywhere as quickly because of the new environment we are in and the lead time to train new drivers.

Testimony
of the
NYC Chapter
National Waste and Recycling Association
for the
NYC Business Integrity Commission (BIC)
Public Hearing
on the
Maximum Rate Allowed
For Handling Trade Waste
September 23, 2021

Submitted
By
Steve Changaris
NYC NWRA Chapter Director
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This written testimony, in addition to oral testimony already given earlier today before the BIC, is submitted in response to the notice, dated August 19, 2021, about the BIC holding a public hearing on the subject of the maximum rate that may be charged by licensees for the collection, removal, disposal, or recycling of trade waste, also known as the rate cap.

My name is Steve Changaris and I am the NYC Chapter director for the National Waste and Recycling Association (NWRA). The Chapter is part of the national trade association that represents America's private sector waste and recycling industry. We have an active Chapter of member companies operating in the City. The hard-working men and women of our Chapter collect and manage the waste, recyclables and organics produced by the City's 100,000 plus commercial entities. It is a herculean task done, day-in, day-out, year-round - in good weather and bad. We work - as BIC licensees -- to provide excellent service to our customers; and, good paying, characteristically union jobs, for our employees. We collect and manage the city's waste, recyclables and organics as safely as possible and strive to be as good corporate citizens too in the neighborhoods and communities of the City we serve.

Most recently we have spent the last 18 months, and those immediately foreseeable in front of us, running our city based private commercial trade waste system as an essential industry during the Covid-19 crisis. Our system – meaning our industry employees, customers and company owners have suffered severe physical, health and financial duress during the pandemic, as so many others have too. The chapter, as an advocate for city trade waste companies in this system, has the job to put the needs of trade waste providers front and center. Clearly the top priority need they have now is rate cap relief from the BIC so that they can begin the work with their customers -- in the critically needed process to “right the ship” or “rebalance the scales” in the trade waste customer – service provider relationship. The economics of running a NYC trade waste company could not have been more strained over the last 18 months running; and these pandemic ill-effects continue today in many respects unabated.

In addition to the economic impact of the pandemic, since the last rate cap bump, trade waste companies have also been subject to new regulatory costs imposed by the city for such things as: new safety side guard requirements; new truck emission compliance standards; commercial waste zone costs incurred for long-term company survival; and most recently the BICs implementation of its safety package of new

regulations driving costs with the installation of cross over mirrors, new training and reporting requirements and more.

REQUESTS:

ELIMINATE THE RATE CAP

IF THE RATE CAP IS TO BE KEPT:

CREATE A MINIMUM RATE BELOW WHICH WASTE, RECYCLABLES AND ORGANICS CANNOT BE COLLECTED AND MANAGED IN THE CITY.

ISSUE AN IMMEDIATE RATE CAP INCREASE, DUE TO COVID-19s EFFECT OF NO RATE CAP INCREASE BEING ISSUED AFTER THE OCTOBER 2019 RATE CAP HEARING

ISSUE ANOTHER RATE CAP INCREASE EFFECTIVE IN JANUARY 2023
THE IMMEDIATE RATE CAP RELIEF SHOULD BE IN THE 12% RANGE

THE JANUARY 2023 RATE CAP RELIEF SHOULD BE IN THE 5% RANGE TO ACCOUNT FOR THE TIME BETWEEN THEN AND THE NEXT RATE CAP INCREASE

Transportation sector cumulative inflation rate from 2017: 11.53%

National cumulative inflation rate from 2017: 11.61%

NYC cumulative inflation rate from 2017: 8.06%

PPI increase for Solid Waste Collection from 2017: up 21%
(133 to 154)

TYPICAL TRADE WASTE SERVICE COMPANY COSTS INCLUDE: LABOR, EQUIPMENT, DISPOSAL FEES, FUEL, SAFETY, INSURANCE, ADMINISTRATIVE COSTS, REGULATORY COSTS, TAXES AND MORE
LABOR IN OUR WORLD INCLUDES A SPECTRUM OF EMPLOYEES – DRIVERS, HELPERS, MECHANICS, OPERATIONS, ADMINISTRATIVE AND MORE

JUST REGARDING DRIVERS, DRIVER SHORTAGE A TOP CONCERN HEARD; THERE HAS BEEN UPWARD DRIVER WAGE PRESSURE IN THE INDUSTRY FOR SEVERAL YEARS RUNNING NOW;

A RECENT TRADE PRESS QUOTE FROM STIFLE INDUSTRY ANALYST, INDICATED “DRIVER WAGE GROWTH SHOULD BE 6% - 10% YEAR OVER YEAR

<https://www.in2013dollars.com/us/inflation/2019>

<https://www.truckdriverssalary.com/garbage-truck-driver-salary/>

<https://www.truckinginfo.com/321837/9-trends-to-watch-in-trucking-in-2019>

The Chapter appreciates the opportunity to provide this testimony and looks forward to continuing its work with the BIC on this and other issues affecting carters in City.

The NYC Chapter of the National Waste and Recycling Association is comprised of the City's private recycling and waste services companies. Chapter members are dedicated to the environmental and economically efficient handling of recyclables, discards and wastes.

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**Recently awarded Sustainability Excellence Associate by the International Society of Sustainability Professionals*

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