

Rate Cap Hearing
October 30, 2015

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THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION

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RATE CAP HEARING

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22 Reade Street, Spector Hall
New York, New York 10007

October 30, 2015
10:00 a.m.

Hearing Officer: DAN BROWNELL,
COMMISSIONER

Reported by: Danielle Cavanagh

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Rate Cap Hearing
October 30, 2015

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S P E A K E R S :

Ron Bergamini, Action Environmental Group

Thomas N. Toscano, Mr. T Carting Corp.

Steve Changaris, NY Chapter, NWRA

Mike Hellstrom, Laborers Local Union 108

Adam Pasquale, Recycle Track Systems

Andy Moss, IESI/PWS

Nadma Tamir, Crow & Chick LLC

Rate Cap Hearing
October 30, 2015

3

1 Proceedings

2 COMM. BROWNELL: Welcome, everyone. So
3 I'm going to apologize. I'm going to read a couple
4 things first -- it's not that long -- so that I don't
5 forget them. And then we'll open things up. So as
6 I've already indicated, I'm Dan Brownell from the
7 Business Integrity Commission.

8 As required by New York City Rules and
9 Regulations, BIC must hold a hearing at least every
10 other year regarding the maximum rates charged by the
11 private trade waste carters for the collection,
12 removal, disposal of trade waste. At BIC's
13 discretion, we may hold such hearings more often if
14 circumstances warrant. Our objective today is to
15 listen to the interested parties including trade
16 waste carters and the customers they serve in order
17 to gain a better understanding of the current state
18 of the commercial trade waste industry and how the
19 rate cap may or may not impact the industry.

20 The New York City Rules explicitly state
21 some of the factors that BIC will take into account
22 when evaluating the current rate cap, which includes
23 the Producer Price Index, commonly referred to as the
24 PPI, available data on the trade waste industry, and
25 any other factors that may be relevant to assessing a

Rate Cap Hearing
October 30, 2015

4

1 Proceedings

2 fair and reasonable return to licensees and the
3 protection of customers for unreasonable charges --
4 from unreasonable charges. The rules also state that
5 the proponent of the change in rate cap must "bear
6 the burden of demonstrating on an industry-wide basis
7 that existing rates are inconsistent with the
8 standards from maximum rates." Thus, we are here to
9 to listen you on this issue. We hope that your
10 statements will be supported by studies and other
11 forms of empirical data. Through this hearing, we
12 hope to gain a better understanding of all the
13 issues underlying the rate cap from the perspective
14 of both the carters and commercial customers.

15 The first issue at hand is the viability
16 of the current rate cap, which was put in place in
17 2013. According to data reported by the licensed
18 carters and the semi-annual customer register, the
19 majority of carters are charged well below the
20 current rate cap, and in fact a large majority are
21 still charging customers below the pre-2013 rate cap.
22 The agency is also equally aware of the arguments
23 raised by the carters that a healthy and robust
24 competitive industry does not need to be artificially
25 controlled via rate cap, and that the fact that the

Rate Cap Hearing
October 30, 2015

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Proceedings

carters are not colluding or at the rate cap provide support for the abolishment of the rate cap entirely.

The trade waste hauling industry will be experiencing changes in the coming year and any decision with respect to the rate cap must take into account those changes. For example, the Department of Sanitation recently held two public hearings, the first on the commercial recycling rules, and the second involved changes to the commercial organic rules. When taken together, those new rules will require private trade waste carting companies and their customers to work together to meet the City's sustainability goals. However, the rules are not yet in effect so their impact could not yet be determined. BIC will continue to monitor this issue as well as other issues that are sure to arise.

As many of you know, we are reinitiating the Trade Waste Advisory Board, which we expect will increase and improve the communication between BIC and the companies we regulate.

This hearing is not the end of our fact-gathering process on this issue. We will continue to have more discussions with interested parties after this hearing. After we have gathered

Rate Cap Hearing
October 30, 2015

6

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Proceedings

all the pertinent information we will then be able to decide how to adjust the rate cap, if at all.

A court reporter is present today and will record the hearing. The hearing is also being video recorded. You may present an oral statement or submit written comments. BIC will carefully consider all the comments it receives today at the hearing and all written comments should be received by November 30th of this year. I will begin calling those of you who wish to speak this morning in the order inwhich you have signed in, except Ron Bergamini is going to go first. When you speak, please state your full name, affiliation and speak slowly and clearly so that the court reporter can understand and accurately transcribe your statements. We're asking people to kind of limit themselves to five minutes. That having been said, we don't need to rush this, necessarily. As I indicated in the comments, this is not going to be the last time we're going to discuss this. So it isn't as if, you know, sometime in early December you're going to be surprised by some decision we're going to make. There'll be more discussion before that so that you know, first of all, what's coming and, second of all,

Rate Cap Hearing
October 30, 2015

7

1 Proceedings

2 that we have an opportunity to consider all views here
3 so that we can try to reach the most intelligent
4 decision here as to what should happen to the rate cap.

5 So, Ron, if you'd like to go first. And,
6 again, I know for some of you that don't speak
7 publicly, the thing I would sort of coach you on is
8 speak slower than you think you should because that's
9 probably going to be just the right speed.

10 MR. BERGAMINI: Good morning. Thank you
11 very much. Thanks for the opportunity to go first.
12 My name is Ron Bergamini. I'm the CEO of Action
13 Environment Group, the parent company of Action
14 Carting Environmental Services which is the largest
15 hauler in the city. We run approximately 100 trucks.
16 And I appreciate the opportunity to give these
17 remarks.

18 I recognize that it's an evolutionary and
19 not a revolutionary process as we all get to know one
20 another. And I've long been an advocate for free
21 markets so I do not support the rate cap, yet I
22 understand it. And what I want to suggest is perhaps
23 a 2-year time period where there is no rate cap and
24 we could test the markets with a sunset provision
25 with that so it would come back, so there'd be no

Rate Cap Hearing
October 30, 2015

8

1 Proceedings

2 need to have to reinvent the wheel as it were. I've
3 submitted my written remarks and as my tendency is, I
4 have a hard time reading from them, so I'm going to
5 paraphrase a little bit.

6 But we did provide some industry metrics,
7 some empirical evidence on what the costs have been
8 over the last two years. Not surprisingly, they've
9 gone up with a notable exception of fuel. Fuel is
10 down, and that's certainly helped us. What has gone
11 up is labor, and it should go up. Our drivers make
12 an average of \$70,000 per year, a solid middle-class
13 wage. We're proud that we offer that. But as we
14 move forward, we want to offer more to our drivers,
15 all of our employees, in terms of workplace
16 environment, safety, better equipment, and that costs
17 money, as you know.

18 One other note on costs that might not be
19 readily apparent to everyone is that the recycling
20 market has changed substantially in the last two
21 years, in particular, paper and cardboard, which is
22 the largest recycle material in New York City. Since
23 the last rate cap, that's down 17 percent. And that,
24 in effect, has been subsidizing a lot of what the
25 industry's been doing in allowing for us to be below

Rate Cap Hearing
October 30, 2015

9

1 Proceedings

2 the rate cap, as you properly pointed out.

3 So the question becomes how do we as an
4 industry become more professional and meet the needs
5 that you want or the City wants, the public wants?
6 How do we do that? That takes money. It takes
7 innovation. It takes better workers. It takes
8 training the workers better. We're presently looking
9 at something called on-board computing to make smart
10 trucks. We're in the early process. It's about a
11 2-year implementation but we believe it has ability
12 to take the industry to the next level in terms of
13 creating better route efficiencies, to better
14 communicate with our employees -- to better
15 communicate with our customers.

16 You pointed out that the industry's going
17 through a change. I couldn't agree more. I think
18 we're in the beginning of that change and you're
19 going to see -- you're beginning to see a different
20 set of professionals in this industry. And I use the
21 word professionals deliberately. That's what you're
22 seeing more and more in this industry. You also
23 mentioned organics. Organics is something that our
24 company's been doing for about 10 years, collecting
25 it. Now with the law changing, DSNY's new

Rate Cap Hearing
October 30, 2015

10

1 Proceedings

2 regulations, which we support, by the way, and have
3 supported, we're finding, as everyone in the industry
4 could attest to, that disposal options are limited;
5 and thus, costs are more, a lot more. In fact, I'm
6 not even sure where they're going to be in the next
7 six or twelve months. I don't think anyone is. If
8 you saw the recent bid that the DSNY put out, the
9 rates were over 100 percent variance on when the
10 numbers came in.

11 So with that said, I'd throw out the
12 notion that perhaps another evolutionary step would
13 be to carve out organics from the rate cap. I know
14 others will speak to that and I strongly support that
15 because if we want to make that work, the economics
16 have to work, the market has to be able to support
17 that and the capital investment that it will take to
18 make that happen because in the short term, it's very
19 hard to raise that capital to get the financing to do
20 these things.

21 I want to wrap up with dispelling
22 with -- perhaps it's a little bit of a myth -- if the
23 rate cap were to go up tomorrow or were to be
24 eliminated tomorrow, you wouldn't see a change in
25 pricing. When you would see that, I don't know. It

Rate Cap Hearing
October 30, 2015

11

1 Proceedings

2 would depend on the market. So then you might ask,
3 well, why would you even care, why are you here, why
4 are you doing this? Because it creates an artificial
5 constraint. I don't want to get too granular but
6 capital will go elsewhere. It's hard to -- we're a
7 private equity firm. We're owned by a private equity
8 company. And we count on investment from others.
9 Others in the audience look to do that as well.
10 Capital's afraid to come to the city because of the
11 rate cap.

12 So I hear that tone going over there.

13 New York City is a very unique market and
14 we don't compare to the west, as everyone talks
15 about. I've been out to the west recently to talk to
16 those folks. Their prices are substantially higher
17 than ours. So the sustainability goals are great, we
18 support them. But they're expensive.

19 So rather than make this a race to the
20 bottom and make this an issue just about price, we
21 want to create value. We want to have the
22 professionals in the industries rise to the top, we
23 want to provide fair wages, good middle-class wages,
24 fair prices to our customers and a better and a safer
25 environment for everyone.

Rate Cap Hearing
October 30, 2015

12

1 Proceedings

2 Thank you.

3 COMM. BROWNELL: Who do we have next,
4 Sal?

5 MR. ARRONA: Mr. Toscano.

6 MR. TOSCANO: Good morning. Thank you
7 all for scheduling this hearing and giving us an
8 opportunity to give testimony on this most important
9 issue. My name is Thomas N. Toscano and I am the
10 Chapter Chair for the National Waste and Recycling
11 Association. I am also the CFO and member of a
12 third-generation family business, Mr. T Carting, that
13 has served this city since 1947.

14 I want to start out with a very brief
15 history of the rate cap. In the late 1990s, the city
16 actually lowered the rate cap to \$12.20 from over
17 \$14. There was no weight-based cap there and the
18 rate sat unchanged until 2008. At that point, a
19 major business, or businesses, the Fulton Fish
20 Market, got cancelled by Waste Management because
21 they could not service them properly -- profitably.
22 And the Fulton Fish Market scrambled to find another
23 carter. Finding no takers, they called the mayor's
24 office and rushed rate cap reform was put through
25 including a weight-based cap. The yardage cap went

Rate Cap Hearing
October 30, 2015

13

1 Proceedings

2 up 30 percent, approximately 3 percent per year if
3 you figure from the prior cap. As an interesting
4 aside, there's only one company left in the city that
5 is publicly traded and one other large company that
6 already spoke who is backed by private equity. The
7 dozens of companies nationwide and worldwide that are
8 in that strata with the revenues to invest in this
9 marketplace have either fled or never entered, and I
10 submit to you that the rate cap is the reason why.

11 In 2013, I attended a meeting with then
12 BIC Commissioner Shari Hyman. She shared data with us
13 that showed us not only were carters losing money as
14 a whole, but there was virtually no entrance into the
15 marketplace. Those conditions are redundant, because
16 all economists will tell you that a marketplace where
17 there is little or no entry is due to poor forecast
18 for profits. To Commissioner Hyman's credit, she
19 pushed through a 15-percent increase to both the
20 weight and the yardage caps and the rate cap is where
21 it is today.

22 In the past year, I have been to more
23 meetings and hearings on the state of this industry
24 than my prior 19 years combined. I've heard many
25 complain that the industry as a whole does not

Rate Cap Hearing
October 30, 2015

14

1 Proceedings

2 recycle enough, has low employment standards, and
3 there are too many trucks on the street that pollute
4 and cause traffic. Interestingly, no one asked the
5 reasons for these alleged maladies. Today I will
6 explain to you why.

7 Your predecessor in the city government
8 created the conditions that led to where we are
9 today. All of the sanitation businesses are
10 operating in an environment that they are reacting to
11 and not one that they created. The laws currently in
12 effect ask for a robust marketplace where city
13 businesses could negotiate and drive down prices.
14 You got that. It was said that carters' profits were
15 too high and needed to be cut. You got that. You
16 asked for an industry that was free of organized
17 crime and corruption. You got that. In short, all
18 of the stated goals of the mid to late '90s were
19 accomplished, and here we sit.

20 Today there is a change in the focus of
21 City policies when it comes to sanitation. The
22 message I am hearing, and correct me if I'm wrong, is
23 that you now do not want the cheapest service out
24 there. You want more recycling, even if it costs
25 more. You want greener trucks, even if they cost

Rate Cap Hearing
October 30, 2015

15

1 Proceedings

2 more. You want higher labor standards, even if they
3 cost more. As a representative of the sanitation
4 industry, I'm here to tell you that you can have all
5 of those things; however, you cannot have them in the
6 current environment that was created to deal with
7 problems of the prior generation.

8 The rate cap is antithetical to all of
9 the stated goals of those pushing change in our
10 industry. Customers as a whole will not recycle if
11 trash rates are low. That is like trying to
12 encourage people to save fuel when fuel is a dollar a
13 gallon. The companies in this room will continue to
14 pay good wages but will continue to fight paying
15 great wages if the rate cap only goes up 3 percent
16 every year. On average, those increases simply deal
17 with past inflation. As a business owner, how can I
18 agree to more than a 3-percent increase in wages and
19 benefits if my revenues are not permitted to increase
20 beyond that? Companies will have great difficulty
21 meeting the new emissions standards proposed for 2020
22 passed for 2020 if they cannot pass on the costs of
23 \$250,000 plus assets to their customers.

24 There was a day in this industry where
25 there was over 400 carters serving this city. Today,

Rate Cap Hearing
October 30, 2015

16

1 Proceedings

2 best estimates of the total operating puts that
3 number around 90. Worse, for city businesses, the
4 top 35 have over 90 percent of the market. As the
5 larger companies in that mix purchase the smaller,
6 that number will decline further. Customers will
7 then have less choice in who they choose and prices
8 will go up. At some point, the market price will hit
9 the rate cap and customers will have difficulty
10 getting carters. This will happen first for the
11 customers that want time-specific pickups and those
12 that want premium days. Then it will hit the very
13 heavy accounts, like restaurants. It will also hit
14 the accounts that are small but want to recycle more
15 because they will require more service. The more
16 regulations the City puts on the industry to address
17 the changing goals, the faster this will happen. Let
18 us end the day when the rate cap was simply a reform
19 to deal with crisis.

20 Commissioner Brownell, I thank you for
21 reopening the dialogue with our industry. I know you
22 want great things for the City and this industry.
23 I'm here to tell you that I and the people I
24 represent will do everything in our power to help you
25 accomplish your goals. What we do will depend on the

Rate Cap Hearing
October 30, 2015

17

1 Proceedings

2 health and success of our companies and that is
3 directly anchored by this antiquated rate cap. I
4 implore you to declare victory over corruption and
5 the prior organized crime regime and throw away this
6 archaic policy as we move forward to tackle the
7 future challenges.

8 If you decide not to take that step at
9 this point, then I ask you to look at what you
10 envision for this industry and what those rate
11 changes will cost. Three percent annually, which
12 will be six percent at this point, is simply not
13 enough to cover inflation, introduce new recycling
14 streams including organics, upgrade all the trucks to
15 environmentally friendly fleets and greatly increase
16 the wages and standards of industry workers.

17 Thank you for your time today.

18 COMM. BROWNELL: Thank you.

19 Who's next, Sal?

20 MR. ARRONA: The next speaker is
21 Mr. Changaris.

22 MR. CHANGARIS: Good morning. My name is
23 Steve Changaris and I am Northeast Regional Manager
24 for the National Waste and Recycling Association and
25 I've been given the privilege over the last six

Rate Cap Hearing
October 30, 2015

18

1 Proceedings

2 months to work with our New York City chapter
3 members. Good morning. The chapter is part of the
4 national trade association that represents America's
5 private sector waste and recycling industry. New
6 York City is our most active chapter. We have
7 thousands of hardworking men and women who collect
8 and manage, we believe, more than 75 percent of the
9 commercial trade waste and recyclables produced by
10 the city's 225,000 plus commercial entities. It's a
11 herculean task done day in and day out year-round in
12 good weather and bad. We work as Business Integrity
13 Commission licensees to provide excellent service to
14 our customers, good-paying jobs for our employees,
15 characteristically union jobs, and to collect and
16 manage the city's waste as safely as possible and to
17 be as good corporate citizens in the neighborhoods
18 and communities of the city where we serve and work
19 as we possibly can.

20 The first point we want to go on record
21 today, like the other two speakers, we'd like to see
22 the elimination of the rate cap. The city is the
23 only locality in the country where the rate cap is
24 still in place and we believe it's time for the rate
25 cap to go and that we do want to cite that previous

Rate Cap Hearing
October 30, 2015

19

1 Proceedings

2 credible city authorities have called for the
3 elimination of the rate cap, and we echo that today.

4 The rate cap artificially restrains the
5 ability of carters to do many things including
6 providing specialized waste and recycling services
7 needed by our customers, it prevents us from
8 introducing new equipment and programs, and it
9 prevents us from attracting the capital investments
10 necessary to fund the best recycling and waste
11 services operations for the citizens and businesses
12 of the city. We also note that the continued
13 existence of the rate cap will only make it that much
14 more difficult for the carters, for our carters, for
15 us, to implement separate collection and processing
16 of organics, to expand the collection and processing
17 of commercial recycling, and to bring the most
18 environmentally friendly and safe trucks to the
19 streets of the city.

20 We've reiterated that point for a while.
21 That's great. It's on the record. This is the first
22 two-year rate cap review that was required based on
23 the regulatory reforms that were passed in November
24 1993 and we -- rather, 2013. We are very grateful
25 that that regulation was passed so that we get an

Rate Cap Hearing
October 30, 2015

20

1 Proceedings

2 opportunity to come before the Commission every two
3 years and present this case. The new process is a
4 welcome addition and it's critical given the dynamics
5 of the ongoing changes in the costs experienced by
6 the carters.

7 We encourage and call the BIC, due to the
8 business conditions of the last two years and what we
9 expect to happen in the immediate future before the
10 next rate cap review required by the new regulations,
11 to grant the private carting industry a rate cap
12 increase no less than the one granted last time in
13 November of 2013. Based on an informal blind polling
14 of chapter members, I'm comfortable to suggest that
15 we believe equipment and labor costs alone, which are
16 the two primary costs of the carters doing business,
17 during this time period have gone up in a range of
18 15 percent and 7 percent respectively. This alone,
19 because they are the major costs of running the waste
20 and recycling collection companies, more than
21 justifies the requested increase to the currently
22 allowable trade waste rates. We learned during our
23 outreach that the other costs of running our
24 businesses, like property and liability insurances,
25 Workers' Compensation, taxes, disposal fees and the

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Proceedings

like, have also increased well beyond or in keeping with the 2013 rate cap relief granted to BIC licensees. The only major cost item that has moderated since then is the price of fuel, which has been previously noted.

And the other point that we want to make in this context, and it's large and it's already been noted but it's a fact, the value, or should we say the loss of value, of the commodities we recover for recycling and diversion from disposal over the last two years needs to be noted. It's known that these commodity markets in general fluctuate whether they're strong, weak or regular markets. And unfortunately, we are in a generally weak market now and we've experienced severe losses in the value of our recyclable commodities; the fibers, the paper, the metal, the plastic and glass during the review period. And again, no one of us has a crystal ball but there's no realistic view or a prevailing view out there that the values will return to a strong pricing position anytime soon. We urge the Commission to pay special attention to this cost in its review to establish new trade waste rates.

The other and last point we'll echo or

Rate Cap Hearing
October 30, 2015

22

1 Proceedings

2 mention new is that we understand the record for the
3 rate cap will be kept open for several weeks. And it
4 involves a little bit of the language that you used,
5 Commissioner, when you described how the rate cap is
6 to be determined. We're petitioning our members to
7 submit further evidence about their costs over the
8 last two years directly to the Commission so that you
9 have that for your information and you can review it.
10 We encourage you to take that information along with
11 the other information that you have from the
12 registers and other submissions that we make, and to
13 review them and understand the cost increase the
14 industry has experienced. We hope that you'll use
15 that information and you'll issue your findings about
16 our increased costs in due time. In addition, the
17 chapter will be involved in that. We not only ask
18 the members but my offices will get you some
19 additional material too.

20 When the BIC closes the record, we then
21 trust it will move swiftly to finalize the
22 rule-making and allow a new rate adjustment we've
23 requested to take effect. Many carters and customers
24 will then be able to use the relief to improve
25 services, to continue to take excellent care of their

Rate Cap Hearing
October 30, 2015

23

1 Proceedings

2 employees, run safe companies and to further the
3 goals of zero waste and higher and best use of our
4 after useful life discards and waste materials. The
5 chapter appreciates the opportunity to provide these
6 comments and looks forward to working with the BIC in
7 the future. Thank you.

8 COMM. BROWNELL: Steve, let me ask a
9 question, and not necessarily to be answered now, and
10 it's not just for you, but a bunch of you. So given
11 that the new recycling rules are going into effect in
12 a couple of months, what do you guys think is the
13 best way to figure out what that means in terms of
14 your increased costs? Because that's one of the
15 dilemmas that I have in trying to figure this out,
16 especially not having a trade waste company of my
17 own. And as I said, not necessarily to be answered
18 today, but I think that's one of the things we should
19 try to figure out, how we could do that, as I said,
20 when we set a rate -- you know, a rate might be fine
21 for December of this year but it might become a total
22 disaster for December of next year if that isn't
23 taken into account. I'll just throw that out there.

24 Who's next, Sal?

25 MR. ARRONA: The next speaker is Mike

Rate Cap Hearing
October 30, 2015

24

1 Proceedings

2 Hellstrom.

3 MR. HELLSTROM: Good morning,
4 Commissioner Brownell. My name is Mike Hellstrom,
5 Business Manager of Laborers Local Union 108.

6 As a labor representative of over 800
7 unionized private sanitation workers in New York
8 City, approximately 50 percent of the unionized
9 workforce, we stand in support of a rate increase for
10 the collection of private waste collection in New
11 York City and urge the Commission to abolish the cap
12 in its entirety.

13 With the rising cost of living in New
14 York City, the rate cap has put unfair pressure on
15 our members' ability to earn incomes that create and
16 maintain sustainable middle-class employment in New
17 York City and restricts the abilities of our
18 employers to make innovative changes that benefit the
19 industry overall and puts escalating pressures on our
20 employers to meet required mandates such as the
21 emission standards as required by the 2020 law which
22 left unchecked will affect our members' ability to
23 continue earning real middle-class wages for
24 themselves and their families.

25 High road employers such as Action, IESI

Rate Cap Hearing
October 30, 2015

25

1 Proceedings

2 and FILCO are consistently striving to ensure that
3 their employees are paid good wages and receive
4 quality benefits and are trained to operate safely.
5 But with these costs rising, especially the cost of
6 medical benefits, which has risen as much as 300
7 percent, since the inception of Local Law 42, our
8 contractors need the ability now more than ever to
9 get real sustainable relief. Now, this is why we
10 suggest removing the rate cap all together.

11 Continued capital investment is essential
12 to our industry and our members' lives. Rate caps
13 dilute capital investment for improvements in our
14 industry that is needed to achieve change that is
15 beneficial to both the employers, the employees and
16 the communities we serve.

17 Labors Local 108 is proud of the
18 partnerships that it has with its employers and we
19 stand in agreement that a rate increase is needed in
20 our industry and that the Commission should be moving
21 to abolish the rate cap in its entirety.

22 Thank you for the time to speak. Thanks
23 very much.

24 COMM. BROWNELL: Thank you.

25 MR. ARRONA: The next speaker is Mr. Adam

Rate Cap Hearing
October 30, 2015

26

1 Proceedings

2 Pasquale.

3 MR. PASQUALE: Good morning.

4 COMM. BROWNELL: Good morning.

5 MR. PASQUALE: My name is Adam Pasquale
6 with Recycle Track Systems, also know as RTS. We are
7 a licensed waste and recycling broker in New York
8 City. Our business is focused on diverting
9 recyclable materials from a landfill, analyzing data
10 and providing recycling reporting.

11 My family has been on the front lines of
12 the New York City waste industry for over a century.
13 As the fourth generation in this industry, I have a
14 full understanding and genuine appreciation of the
15 logistical obstacles and regulatory complexities that
16 our New York City haulers are faced with on a daily
17 basis. Those truly following the industry know that
18 progress has been painstakingly slow and it is now
19 time for a change. Today is an exciting and pivotal
20 moment in our city's history with respect to how we
21 handle, treat and understand recycling and waste.

22 As you consider this legislation, please
23 keep the following in mind: One, expanding the
24 playing field; two, the legislation as currently
25 drafted for organics recycling will not work; and

1 Proceedings

2 three, there is a workable solution that already
3 exists.

4 Expanding the playing field. Expand the
5 Business Integrity Commission broker's license to
6 allow the hauling of organic waste material.
7 Reforming this regulation will allow new sustainable
8 companies to enter the market without the burden of
9 traditional waste removal complexities. Bottom line,
10 expanding the free market for organic hauling will
11 create new jobs, best practices and spur innovation
12 for an industry in much need of change.

13 The legislation as currently drafted for
14 organics recycling will not work. While we are here
15 to discuss this important piece of legislation, I
16 would be amiss if I did not mention the struggles
17 currently faced by haulers. Through our research
18 and daily interactions, we know the costs of hauling
19 organics are significantly higher than hauling waste.
20 This is due to transportation, education, validation
21 and risk of contamination. Simply put, New York City
22 hauler margins are being squeezed. Haulers are under
23 tremendous pressure to reduce truck traffic,
24 implement evolving standards and regulations, all
25 while trying to service the most demanding city in

Proceedings

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2 the world. This creates a polarizing effect between
3 the haulers and the city.

4 There is a workable solution that already
5 exists. Across the river, these exemptions we are
6 proposing are already being practiced by New Jersey,
7 a state which has some of the strictest regulations
8 with regards to operating an organics recycling
9 facility. In New Jersey, you can haul organics food
10 waste recycling without an A-901 license, which is
11 the New Jersey equivalent to the New York BIC
12 license. If the highest-regulated state supports
13 this exemption for organics, then surely we can
14 devise a workable option for our city as well.

15 So therefore, let's talk about a way
16 forward for the city, the environment, and my young
17 son's generation. RTS publicly supports amending the
18 New York City law to allow the hauling of source
19 separated food waste to be a key to success for the
20 new organics legislation. This allows for New York
21 City haulers and BIC licensed brokers to be more
22 versatile and thrive as well as open the market for
23 new business.

24 At the end of the day, we all want to
25 make this a better city and a better planet. Thank

Rate Cap Hearing
October 30, 2015

29

1 Proceedings

2 you for your time and consideration.

3 COMM. BROWNELL: So, Adam, are you going
4 to continue to be a part of this conversation as we
5 go forward, not only with regard to the rate cap but
6 all the other issues that are coming up in terms of
7 recycling and compost?

8 MR. PASQUALE: I absolutely would be. I
9 mean, I think that shows from all the people we
10 brought here. We're ready to help. We want to help.
11 It's broken and we want to help it.

12 COMM. BROWNELL: That's good, because
13 we're obviously interested in hearing all views, good
14 ideas. We certainly aren't operating under the
15 misconception that we've got this figured out because
16 we don't. And so as well as you and anybody else in
17 this room and other people that aren't here, you
18 know, to include people so that we can, as I said,
19 move forward and hopefully reach the most reasonable
20 workable solutions that we can come up with.

21 MR. PASQUALE: Absolutely.

22 COMM. BROWNELL: All right. Thanks.

23 MR. ARRONA: The next speaker is Andy
24 Moss.

25 MR. MOSS: I'm being green today. I

Rate Cap Hearing
October 30, 2015

30

1 Proceedings

2 don't have a paper. So is it all right if I sit over
3 here?

4 COMM. BROWNELL: Sure, yeah. That's very
5 radical of you.

6 MR. MOSS: Good morning and thank you for
7 the opportunity to be here today. Progressive Waste
8 Solutions is the only New York Stock Exchange
9 publicly listed company that picks up garbage and
10 recyclables in New York City. Progressive Waste, of
11 which IESI is a subsidiary corporation, is the third
12 largest nonhazardous waste management company in
13 North America. We operate in twelve states, the
14 District of Columbia, throughout Canada. No other
15 jurisdiction we operate in in North America, not in
16 any state, providence, county, city, town, village --
17 I think I've covered every jurisdiction -- is rate
18 capped by a regulatory agency. In all these markets,
19 vigorous competition between corporations creates a
20 natural incentive to provide customers with
21 high-quality service at an economical rate.

22 But that's not why we're here today.
23 Today we're here to provide testimony that
24 demonstrates how our costs have increased since
25 November 21, 2013 to today. I have three different

Rate Cap Hearing
October 30, 2015

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Proceedings

expense categories; operational, capital and intangibles. And in terms of context, we have approximately 17 percent of our customers are currently at the rate cap. So for us, it's a significant number.

From our operating costs, our union wages, we provide good-paying jobs for our hardworking union employees. Their wages, as per our collective bargaining agreements, have increased 5.25 percent the past two years. Along with the good wages, we provide medical, dental, vision, life disability insurance. For our nonunion employees, medical insurance has increased 5.7 percent in 2014, 11.9 percent in 2015. Dental insurance increased 7.5 percent in 2015. That should be a reminder to floss as well as brush your teeth. For our union employees, our welfare fund contributions increased by 8.7 percent from March of 2013 to February of 2014, an additional 8.1 percent from March '14 to September 2015. Our pension fund contributions increased by 3.8 percent from March 2013 to February 2014, an additional 3.7 percent from March 2014 to September 2015. A smaller pension fund contribution increased 4.3 and 4.2 percent in respective time

Rate Cap Hearing
October 30, 2015

32

Proceedings

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2 periods.

3 Other operating costs, tolls. Publicly
4 available multi-year toll schedule from the Port
5 Authority, the bridge and toll schedules for 3-axle
6 vehicles rose an average of \$38.50 to an average
7 price of \$50.83, which is a 32-percent increase.

8 The price of a postage stamp has
9 increased from \$0.46 to \$0.49, which is a 6.5-percent
10 increase. We communicate with thousands of customers
11 each month through the post office.

12 Capital costs. Trucks, the cost of a
13 32-yard rear-load packer rose from about \$258,000 in
14 2013 to over \$357,000 in 2015, an increase of
15 39 percent. Manufacturers' equipment upgrades to
16 meet federal emissions standards have directly led to
17 these higher prices and are completely out of our
18 control. Moreover, as a company, we've added
19 additional safety features to our trucks, including
20 high-intensity lighting packages, side guards,
21 Qwik-Tip automated loading systems, so the men don't
22 have to physically throw the trash into the hopper.
23 And while we believe these safety investments are
24 vital in what we all know is a very dangerous
25 occupation, and on a side note should be required for

Rate Cap Hearing
October 30, 2015

33

1 Proceedings

2 all licensees, there's only one way to pay for these
3 improvements and that's through the rates we charge
4 our customers.

5 As many people have mentioned, organics
6 collection is an expensive service and should either
7 have a separate rate or not be regulated. As the
8 Commission is aware, we are not allowed to charge for
9 containers that need to be provided for this service.
10 These special toters have a short life expectancy
11 with their own cost. The other point is with
12 organics, there's no route density at this point and
13 when you combine the specialty route with the now
14 reduced speed limit under the Mayor's Vision Zero
15 plan program, operating and disposal costs oftentimes
16 exceed what can be legally charged. This is not a
17 market that we're looking to grow to pass the time.

18 As I mentioned, above 17 percent of our
19 customers are at the rate cap. These customers,
20 frankly, they have no incentive to produce less
21 garbage since they can't be charged an additional
22 fee. They are, in my estimation, also subsidizing
23 those customers that are not at the rate cap. If
24 their rate were allowed to increase, they may make
25 rational decisions like becoming more diligent about

1 Proceedings

2 recycling. Of course, they're always free to seek
3 another carter to serve them at a lower cost. The
4 result is a more efficient marketplace.

5 Part of a coalition that, again, is
6 talking about -- we believe that there should be high
7 standards for our industry, good labor, good wage
8 scales, health benefits, safety for our trucks. They
9 will all have costs associated with that. And those
10 costs for us to operate have to be recovered.

11 We're happy to provide the Commission
12 with any and all documentation that we discussed here
13 today and thank you for your time and your
14 consideration.

15 COMM. BROWNELL: Thank you.

16 MR. ARRONA: The next speaker is Nadma
17 Tamir.

18 MS. TAMIR: Good morning, everyone. I'm
19 Nadma Tamir. I'm a business owner and operator of
20 Lighthouse in Brooklyn and also assume Lighthouse
21 (inaudible) in Manhattan. I'm the Chair of
22 Sustainability in Green Practices at Babar
23 (phonetic). It's a restaurant and bar association
24 north of Williamsburg and Greenpoint, and also a
25 member of Transform New York Don't Trash Coalition.

Rate Cap Hearing
October 30, 2015

35

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Proceedings

I'm really excited to sort of have this opportunity to talk about the experience of a small-business owner with carting and waste management practices. I have a few serious concerns about the increase. In my experience, there is a lack of transparency in our dealings with waste companies. Myself and my fellow small business owners have very little understanding of what it is that our bill consists of. You really sort of have no gauge of why you're charged, what you're charged, whether the effort that you put in into separating your waste and your recyclables actually goes further. I mean, oftentimes I see our trucks being -- the trucks for waste companies sort of being loaded, like, our waste and our recyclables in the same truck and it sort of makes you wonder if we had gone through the trouble of separating everything, why does it go into the same truck? It seems like an effortless idea to kind of send a different truck.

We in the last year have been fortunate enough to work with the Billion Oyster Project as well as Sure We Can, which is a local compost facility. And even though our garbage waste has been reduced substantially, probably over the 50 percent,

Rate Cap Hearing
October 30, 2015

36

1 Proceedings

2 there was an increase of over 200 percent in our
3 rate, monthly rate. So really no explanation other
4 than a scribbled page with a little bit of weight on
5 there and a lame explanation of how we went from one
6 number to another in a span of two months. I would
7 be extremely happy to pay more for a service that
8 will provide safe trucks, that will be zoned. In my
9 block alone, we have five restaurants. Each one has
10 a different hauler, so we're talking about labor,
11 gas, trucks, asthma. Here's one way to look at this
12 problem. I would happily pay for a company that will
13 serve me well. Meaning, in the summertime if our
14 waste didn't get picked up, it was outside literally
15 stewing in a garbage bin smelling. I couldn't use my
16 outdoor area, seating area. I had to close the
17 windows because it reeked. I had neighbors that were
18 obviously very upset. And then when you call, no one
19 can send the truck the same day. You basically have
20 to lose that entire side of the sidewalk. And
21 there's nothing from the waste company that sort of,
22 like, reprimands that. I mean, I use my analogy to
23 say if a customer sits down and they order a steak
24 and they don't get the steak, I don't put it on the
25 check. It doesn't happen with waste companies.

Rate Cap Hearing
October 30, 2015

37

1 Proceedings

2 They're like, Oh, someone will come and pick it up.
3 And I have to go in the morning and sort of make sure
4 that, you know, the garbage got picked up. Rats,
5 obviously, smell, you know. It feels like a
6 third-world country in the summer outside in New York
7 when we have just garbage piles on the sidewalks.

8 Again, for the right service,
9 restaurateurs will pay more, the same way we pay
10 more for good meat, sustainable farming, organic
11 produce. It has to get better. There has to be a
12 calendar, there has to be a little bit more
13 transparency. We want change. We want the city to
14 be a better city. We're a part of a community. I
15 live two blocks away from the restaurant. If the
16 restaurant across from me doesn't pick up their
17 garbage, I wake up with that smell. It's awful.

18 So I think that we're happy to look at a
19 price raise but there has to be consequences on
20 haulers as well.

21 COMM. BROWNELL: Did you submit anything
22 to us writing?

23 MS. TAMIR: I did not.

24 COMM. BROWNELL: So if we wanted to talk
25 to you again, can you give us something so that we

Rate Cap Hearing
October 30, 2015

38

1 Proceedings

2 can do that?

3 MS. TAMIR: Sure. I can give a card.

4 COMM. BROWNELL: That would be good.

5 MR. ARRONA: Those are all the
6 individuals who have signed up. Is there anyone else
7 who would like to testify at this hearing?

8 (No response.)

9 COMM. BROWNELL: Does anybody have
10 anything else they'd like to -- we technically have
11 the space until noon. I know that large groups can
12 sometimes be difficult to manage, but is there
13 anything else anybody wants to talk about?

14 One of the concerns I have is that I
15 don't have enough people from the generator side and
16 obviously that's a very important component to all of
17 this so that's probably one of the things we should
18 talk about. I mean, I've met some people from the
19 restaurant association, which I think is a little
20 different than the association you're in.

21 MS. TAMIR: Right. Ours is just, like, a
22 local organization.

23 COMM. BROWNELL: Obviously generators are
24 more than just restaurants. So I'll have to figure
25 that out, if anyone has any suggestions.

Rate Cap Hearing
October 30, 2015

39

1 Proceedings

2 MS. TAMIR: I mean, our association is
3 mostly restaurants and bars but not only.

4 MS. IMPERIALE: Laura Imperiale,
5 Tully (phonetic) Environmental. I think it would be
6 important to have sort of a more balanced
7 conversation, that we reach out to some of our
8 customers and ask them to either reach out to you or
9 submit testimony.

10 COMM. BROWNELL: Yeah, that would be very
11 helpful. That would be very helpful. Again, it
12 isn't the conversation today wasn't balanced, it was
13 very helpful, very good points, very useful. But in
14 moving forward, as you've indicated, we have to make
15 sure we're considering the concerns of sort of all
16 the interested parties as it were because that's
17 going to be important.

18 Anything else from anyone?

19 (No response.)

20 COMM. BROWNELL: All right. So as
21 I've indicated, this is going to be an ongoing
22 process. We don't want to take forever to do this,
23 but to the extent that anyone has other information
24 or other people that want to come in and talk to
25 us, we are always happy to do that and I would

Rate Cap Hearing
October 30, 2015

40

1 Proceedings

2 actually encourage that. So just -- I hope you know
3 where to find us.

4 Yes, Steve?

5 MR. CHANGARIS: Can we ask for a date
6 certain that you'll sort of close the record or that
7 you go back to the office and figure out that we all
8 have the comments in by a certain date so you can
9 finish the review of the hearing? Can we do
10 something like that?

11 COMM. BROWNELL: So why don't we do this:
12 It's now almost the beginning of November. Can we
13 say --

14 MR. ARRONA: We will continue to accept
15 statements until November 30th.

16 COMM. BROWNELL: Yeah, so why don't we
17 give November 30th as the date and if there's a good
18 reason to extend that for some reason, and I can't
19 think of what that would be right now, but that
20 doesn't mean there won't be one, we'll do that.
21 Obviously we want to make this as rational as
22 possible. So why don't we say November 30th. As
23 I've said, I have a concern I'm not hearing enough
24 from the generators, not to beat up on the generators
25 but that's obviously a critically important voice to

Rate Cap Hearing
October 30, 2015

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Proceedings

have as part of this discussion. And please feel
free to contact me. All right? Thank you, everyone.

(Time noted: 10:53 a.m.)

**Rate Cap Hearing
October 30, 2015**

A		
A-901 (1) 28:10	appreciate (1) 7:16	benefits (4) 15:19 25:4,6 34:8
a.m (2) 1:11 41:4	appreciates (1) 23:5	Bergamini (4) 2:4 6:13 7:10,12
abilities (1) 24:17	appreciation (1) 26:14	best (5) 16:2 19:10 23:3,13 27:11
ability (5) 9:11 19:5 24:15,22 25:8	approximately (4) 7:15 13:2 24:8 31:4	better (13) 3:17 4:12 8:16 9:7,8,13 9:13,14 11:24 28:25,25 37:11,14
able (3) 6:2 10:16 22:24	archaic (1) 17:6	beyond (2) 15:20 21:2
abolish (2) 24:11 25:21	area (2) 36:16,16	BIC (12) 3:9,21 5:16,20 6:7 13:12 20:7 21:3 22:20 23:6 28:11,21
abolishment (1) 5:3	arguments (1) 4:22	BIC's (1) 3:12
absolutely (2) 29:8,21	ARRONA (8) 12:5 17:20 23:25 25:25 29:23 34:16 38:5 40:14	bid (1) 10:8
accept (1) 40:14	artificial (1) 11:4	bill (1) 35:10
accomplish (1) 16:25	artificially (2) 4:24 19:4	Billion (1) 35:22
accomplished (1) 14:19	aside (1) 13:4	bin (1) 36:15
account (3) 3:21 5:7 23:23	asked (2) 14:4,16	bit (5) 8:5 10:22 22:4 36:4 37:12
accounts (2) 16:13,14	asking (1) 6:17	blind (1) 20:13
accurately (1) 6:16	assessing (1) 3:25	block (1) 36:9
achieve (1) 25:14	assets (1) 15:23	blocks (1) 37:15
action (5) 2:4 7:12,13 24:25 42:15	associated (1) 34:9	blood (1) 42:15
active (1) 18:6	association (7) 12:11 17:24 18:4 34:23 38:19,20 39:2	Board (1) 5:19
Adam (4) 2:8 25:25 26:5 29:3	assume (1) 34:20	bottom (2) 11:20 27:9
added (1) 32:18	asthma (1) 36:11	bridge (1) 32:5
addition (2) 20:4 22:16	attended (1) 13:11	brief (1) 12:14
additional (5) 22:19 31:20,23 32:19 33:21	attention (1) 21:23	bring (1) 19:17
address (1) 16:16	attest (1) 10:4	broken (1) 29:11
adjust (1) 6:3	attracting (1) 19:9	broker (1) 26:7
adjustment (1) 22:22	audience (1) 11:9	broker's (1) 27:5
Advisory (1) 5:19	authorities (1) 19:2	brokers (1) 28:21
advocate (1) 7:20	Authority (1) 32:5	Brooklyn (1) 34:20
affect (1) 24:22	automated (1) 32:21	brought (1) 29:10
affiliation (1) 6:14	available (2) 3:24 32:4	Brownell (24) 1:14 3:2,6 12:3 16:20 17:18 23:8 24:4 25:24 26:4 29:3,12,22 30:4 34:15 37:21,24 38:4,9,23 39:10,20 40:11,16
afraid (1) 11:10	AVENUE (1) 1:22	brush (1) 31:17
agency (2) 4:22 30:18	average (4) 8:12 15:16 32:6,6	bunch (1) 23:10
agree (2) 9:17 15:18	aware (2) 4:22 33:8	burden (2) 4:6 27:8
agreement (1) 25:19	awful (1) 37:17	business (14) 1:3 3:7 12:12,19 15:17 18:12 20:8,16 24:5 26:8 27:5 28:23 34:19 35:8
agreements (1) 31:10		businesses (6) 12:19 14:9,13 16:3 19:11 20:24
alleged (1) 14:5	B	
allow (4) 22:22 27:6,7 28:18	Babar (1) 34:22	
allowable (1) 20:22	back (2) 7:25 40:7	
allowed (2) 33:8,24	backed (1) 13:6	
allowing (1) 8:25	bad (1) 18:12	
allows (1) 28:20	balanced (2) 39:6,12	
amending (1) 28:17	ball (1) 21:19	
America (2) 30:13,15	bar (1) 34:23	
America's (1) 18:4	bargaining (1) 31:10	
amiss (1) 27:16	bars (1) 39:3	
analogy (1) 36:22	based (2) 19:22 20:13	
analyzing (1) 26:9	basically (1) 36:19	
anchored (1) 17:3	basis (2) 4:6 26:17	
Andy (2) 2:9 29:23	bear (1) 4:5	
annually (1) 17:11	beat (1) 40:24	
answered (2) 23:9,17	becoming (1) 33:25	
antiquated (1) 17:3	beginning (3) 9:18,19 40:12	
antithetical (1) 15:8	believe (6) 9:11 18:8,24 20:15 32:23 34:6	
anybody (3) 29:16 38:9,13	beneficial (1) 25:15	
anytime (1) 21:22	benefit (1) 24:18	
apologize (1) 3:3		C
apparent (1) 8:19		C (2) 42:2,2
		calendar (1) 37:12
		call (2) 20:7 36:18
		called (3) 9:9 12:23 19:2
		calling (1) 6:10
		Canada (1) 30:14
		cancelled (1) 12:20
		cap (55) 1:5 3:19,22 4:5,13,16,20 4:21,25 5:2,3,6 6:3 7:4,21,23 8:23 9:2 10:13,23 11:11 12:15,16 12:17,24,25,25 13:3,10,20 15:8 15:15 16:9,18 17:3 18:22,23,25 19:3,4,13,22 20:10,11 21:3 22:3 22:5 24:11,14 25:10,21 29:5 31:5

Rate Cap Hearing October 30, 2015

2

33:19,23
capital (8) 10:17,19 11:6 19:9
 25:11,13 31:2 32:12
Capital's (1) 11:10
capped (1) 30:18
caps (2) 13:20 25:12
card (1) 38:3
cardboard (1) 8:21
care (2) 11:3 22:25
carefully (1) 6:7
carter (2) 12:23 34:3
carters (16) 3:11,16 4:14,18,19,23
 5:2 13:13 15:25 16:10 19:5,14,14
 20:6,16 22:23
carters' (1) 14:14
carting (6) 2:5 5:12 7:14 12:12
 20:11 35:4
carve (1) 10:13
case (1) 20:3
categories (1) 31:2
cause (1) 14:4
Cavanagh (3) 1:17 42:8,23
century (1) 26:12
CEO (1) 7:12
certain (2) 40:6,8
certainly (2) 8:10 29:14
certify (2) 42:10,14
CFO (1) 12:11
Chair (2) 12:10 34:21
challenges (1) 17:7
Changaris (5) 2:6 17:21,22,23
 40:5
change (10) 4:5 9:17,18 10:24
 14:20 15:9 25:14 26:19 27:12
 37:13
changed (1) 8:20
changes (6) 5:5,7,10 17:11 20:5
 24:18
changing (2) 9:25 16:17
chapter (8) 2:6 12:10 18:2,3,6
 20:14 22:17 23:5
characteristically (1) 18:15
charge (2) 33:3,8
charged (6) 3:10 4:19 33:16,21
 35:11,11
charges (2) 4:3,4
charging (1) 4:21
cheapest (1) 14:23
check (1) 36:25
Chick (1) 2:10
choice (1) 16:7
choose (1) 16:7
circumstances (1) 3:14
cite (1) 18:25
citizens (2) 18:17 19:11
city (44) 1:2 3:8,20 7:15 8:22 9:5
 11:10,13 12:13,15 13:4 14:7,12

14:21 15:25 16:3,16,22 18:2,6,18
 18:22 19:2,12,19 24:8,11,14,17
 26:8,12,16 27:21,25 28:3,14,16
 28:18,21,25 30:10,16 37:13,14
city's (4) 5:13 18:10,16 26:20
clearly (1) 6:15
close (2) 36:16 40:6
closes (1) 22:20
coach (1) 7:7
coalition (2) 34:5,25
collect (2) 18:7,15
collecting (1) 9:24
collection (7) 3:11 19:15,16 20:20
 24:10,10 33:6
collective (1) 31:10
colluding (1) 5:2
Columbia (1) 30:14
combine (1) 33:13
combined (1) 13:24
come (6) 7:25 11:10 20:2 29:20
 37:2 39:24
comes (1) 14:21
comfortable (1) 20:14
coming (3) 5:5 6:25 29:6
COMM (20) 3:2 12:3 17:18 23:8
 25:24 26:4 29:3,12,22 30:4 34:15
 37:21,24 38:4,9,23 39:10,20
 40:11,16
comments (6) 6:7,8,9,20 23:6 40:8
commercial (7) 3:18 4:14 5:9,10
 18:9,10 19:17
Commission (11) 1:3 3:7 18:13
 20:2 21:23 22:8 24:11 25:20 27:5
 33:8 34:11
Commissioner (6) 1:14 13:12,18
 16:20 22:5 24:4
commodities (2) 21:10,17
commodity (1) 21:13
commonly (1) 3:23
communicate (3) 9:14,15 32:10
communication (1) 5:20
communities (2) 18:18 25:16
community (1) 37:14
companies (13) 5:12,21 13:7
 15:13,20 16:5 17:2 20:20 23:2
 27:8 35:8,15 36:25
company (10) 7:13 11:8 13:4,5
 23:16 30:9,12 32:18 36:12,21
company's (1) 9:24
compare (1) 11:14
Compensation (1) 20:25
competition (1) 30:19
competitive (1) 4:24
complain (1) 13:25
completely (1) 32:17
complexities (2) 26:15 27:9
component (1) 38:16

compost (2) 29:7 35:23
computing (1) 9:9
concern (1) 40:23
concerns (3) 35:5 38:14 39:15
conditions (3) 13:15 14:8 20:8
consequences (1) 37:19
consider (3) 6:7 7:2 26:22
consideration (2) 29:2 34:14
considering (1) 39:15
consistently (1) 25:2
consists (1) 35:10
constraint (1) 11:5
contact (1) 41:3
containers (1) 33:9
contamination (1) 27:21
context (2) 21:8 31:3
continue (8) 5:16,24 15:13,14
 22:25 24:23 29:4 40:14
continued (2) 19:12 25:11
contractors (1) 25:8
contribution (1) 31:24
contributions (2) 31:18,21
control (1) 32:18
controlled (1) 4:25
conversation (3) 29:4 39:7,12
Corp (1) 2:5
corporate (1) 18:17
corporation (1) 30:11
corporations (1) 30:19
correct (1) 14:22
corruption (2) 14:17 17:4
cost (11) 14:25 15:3 17:11 21:4,23
 22:13 24:13 25:5 32:12 33:11
 34:3
costs (23) 8:7,16,18 10:5 14:24
 15:22 20:5,15,16,19,23 22:7,16
 23:14 25:5 27:18 30:24 31:7 32:3
 32:12 33:15 34:9,10
count (1) 11:8
country (2) 18:23 37:6
county (2) 30:16 42:6
couple (2) 3:3 23:12
course (1) 34:2
court (2) 6:4,15
cover (1) 17:13
covered (1) 30:17
create (3) 11:21 24:15 27:11
created (3) 14:8,11 15:6
creates (3) 11:4 28:2 30:19
creating (1) 9:13
credible (1) 19:2
credit (1) 13:18
crime (2) 14:17 17:5
crisis (1) 16:19
critical (1) 20:4
critically (1) 40:25
Crow (1) 2:10

Rate Cap Hearing
October 30, 2015

crystal (1) 21:19
current (5) 3:17,22 4:16,20 15:6
currently (6) 14:11 20:21 26:24
27:13,17 31:5
customer (2) 4:18 36:23
customers (23) 3:16 4:3,14,21
5:13 9:15 11:24 15:10,23 16:6,9
16:11 18:14 19:7 22:23 30:20
31:4 32:10 33:4,19,19,23 39:8
cut (1) 14:15

D

daily (2) 26:16 27:18
Dan (2) 1:14 3:6
dangerous (1) 32:24
Danielle (3) 1:17 42:8,23
data (5) 3:24 4:11,17 13:12 26:9
date (3) 40:5,8,17
day (7) 15:24 16:18 18:11,11 28:24
36:19 42:19
days (1) 16:12
deal (3) 15:6,16 16:19
dealings (1) 35:7
December (3) 6:22 23:21,22
decide (2) 6:3 17:8
decision (3) 5:6 6:23 7:4
decisions (1) 33:25
declare (1) 17:4
decline (1) 16:6
deliberately (1) 9:21
demanding (1) 27:25
demonstrates (1) 30:24
demonstrating (1) 4:6
density (1) 33:12
dental (2) 31:12,15
Department (1) 5:7
depend (2) 11:2 16:25
described (1) 22:5
determined (2) 5:16 22:6
devise (1) 28:14
dialogue (1) 16:21
different (5) 9:19 30:25 35:20
36:10 38:20
difficult (2) 19:14 38:12
difficulty (2) 15:20 16:9
dilemmas (1) 23:15
diligent (1) 33:25
dilute (1) 25:13
directly (3) 17:3 22:8 32:16
disability (1) 31:13
disaster (1) 23:22
discards (1) 23:4
discretion (1) 3:13
discuss (2) 6:21 27:15
discussed (1) 34:12
discussion (2) 6:24 41:2
discussions (1) 5:24

dispelling (1) 10:21
disposal (5) 3:12 10:4 20:25 21:11
33:15
District (1) 30:14
diversion (1) 21:11
diverting (1) 26:8
documentation (1) 34:12
doing (4) 8:25 9:24 11:4 20:16
dollar (1) 15:12
dozens (1) 13:7
drafted (2) 26:25 27:13
drive (1) 14:13
drivers (2) 8:11,14
DSNY (1) 10:8
DSNY's (1) 9:25
due (4) 13:17 20:7 22:16 27:20
dynamics (1) 20:4

E

E (4) 2:2,2 42:2,2
early (2) 6:22 9:10
earn (1) 24:15
earning (1) 24:23
echo (2) 19:3 21:25
economical (1) 30:21
economics (1) 10:15
economists (1) 13:16
education (1) 27:20
effect (6) 5:15 8:24 14:12 22:23
23:11 28:2
efficiencies (1) 9:13
efficient (1) 34:4
effort (1) 35:12
effortless (1) 35:20
either (3) 13:9 33:6 39:8
eliminated (1) 10:24
elimination (2) 18:22 19:3
EMAIL (1) 1:24
emission (1) 24:21
emissions (2) 15:21 32:16
empirical (2) 4:11 8:7
employees (9) 8:15 9:14 18:14
23:2 25:3,15 31:9,13,18
employers (5) 24:18,20,25 25:15
25:18
employment (2) 14:2 24:16
encourage (4) 15:12 20:7 22:10
40:2
ensure (1) 25:2
enter (1) 27:8
entered (1) 13:9
entire (1) 36:20
entirely (1) 5:3
entirety (2) 24:12 25:21
entities (1) 18:10
entrance (1) 13:14
entry (1) 13:17

environment (6) 7:13 8:16 11:25
14:10 15:6 28:16
Environmental (3) 2:4 7:14 39:5
environmentally (2) 17:15 19:18
envision (1) 17:10
equally (1) 4:22
equipment (4) 8:16 19:8 20:15
32:15
equity (3) 11:7,7 13:6
equivalent (1) 28:11
escalating (1) 24:19
especially (2) 23:16 25:5
essential (1) 25:11
establish (1) 21:24
estimates (1) 16:2
estimation (1) 33:22
evaluating (1) 3:22
evidence (2) 8:7 22:7
evolutionary (2) 7:18 10:12
evolving (1) 27:24
example (1) 5:7
exceed (1) 33:16
excellent (2) 18:13 22:25
exception (1) 8:9
Exchange (1) 30:8
excited (1) 35:2
exciting (1) 26:19
exemption (1) 28:13
exemptions (1) 28:5
existence (1) 19:13
existing (1) 4:7
exists (2) 27:3 28:5
expand (2) 19:16 27:4
expanding (3) 26:23 27:4,10
expect (2) 5:19 20:9
expectancy (1) 33:10
expense (1) 31:2
expensive (2) 11:18 33:6
experience (2) 35:3,6
experienced (3) 20:5 21:16 22:14
experiencing (1) 5:5
explain (1) 14:6
explanation (2) 36:3,5
explicitly (1) 3:20
extend (1) 40:18
extent (1) 39:23
extremely (1) 36:7

F

F (1) 42:2
faced (2) 26:16 27:17
facility (2) 28:9 35:24
FACSIMILE (1) 1:24
fact (4) 4:20,25 10:5 21:9
fact-gathering (1) 5:23
factors (2) 3:21,25
fair (3) 4:2 11:23,24

**Rate Cap Hearing
October 30, 2015**

families (1) 24:24
 family (2) 12:12 26:11
 farming (1) 37:10
 faster (1) 16:17
 features (1) 32:19
 February (2) 31:19,22
 federal (1) 32:16
 fee (1) 33:22
 feel (1) 41:2
 feels (1) 37:5
 fees (1) 20:25
 fellow (1) 35:8
 fibers (1) 21:17
 field (2) 26:24 27:4
 fight (1) 15:14
 figure (6) 13:3 23:13,15,19 38:24
 40:7
 figured (1) 29:15
 FILCO (1) 25:2
 finalize (1) 22:21
 financing (1) 10:19
 find (2) 12:22 40:3
 finding (2) 10:3 12:23
 findings (1) 22:15
 fine (1) 23:20
 finish (1) 40:9
 firm (1) 11:7
 first (10) 3:4 4:15 5:9 6:13,25 7:5
 7:11 16:10 18:20 19:21
 Fish (2) 12:19,22
 five (2) 6:18 36:9
 fled (1) 13:9
 fleets (1) 17:15
 floss (1) 31:16
 fluctuate (1) 21:13
 focus (1) 14:20
 focused (1) 26:8
 folks (1) 11:16
 following (2) 26:17,23
 food (2) 28:9,19
 forecast (1) 13:17
 forever (1) 39:22
 forget (1) 3:5
 forms (1) 4:11
 fortunate (1) 35:21
 forward (7) 8:14 17:6 23:6 28:16
 29:5,19 39:14
 fourth (1) 26:13
 frankly (1) 33:20
 free (5) 7:20 14:16 27:10 34:2 41:3
 friendly (2) 17:15 19:18
 front (1) 26:11
 fuel (5) 8:9,9 15:12,12 21:5
 full (2) 6:14 26:14
 Fulton (2) 12:19,22
 fund (4) 19:10 31:18,21,24
 further (5) 16:6 22:7 23:2 35:14

42:14
 future (3) 17:7 20:9 23:7

G

gain (2) 3:17 4:12
 gallon (1) 15:13
 garbage (7) 30:9 33:21 35:24
 36:15 37:4,7,17
 gas (1) 36:11
 gathered (1) 5:25
 gauge (1) 35:11
 general (1) 21:13
 generally (1) 21:15
 generation (3) 15:7 26:13 28:17
 generator (1) 38:15
 generators (3) 38:23 40:24,24
 genuine (1) 26:14
 getting (1) 16:10
 give (5) 7:16 12:8 37:25 38:3 40:17
 given (3) 17:25 20:4 23:10
 giving (1) 12:7
 glass (1) 21:18
 go (13) 6:13 7:5,11 8:11 10:23 11:6
 16:8 18:20,25 29:5 35:19 37:3
 40:7
 goals (7) 5:14 11:17 14:18 15:9
 16:17,25 23:3
 goes (2) 15:15 35:13
 going (17) 3:3,3 6:13,20,21,22,23
 7:9 8:4 9:16,19 10:6 11:12 23:11
 29:3 39:17,21
 good (23) 7:10 11:23 12:6 15:14
 17:22 18:3,12,17 24:3 25:3 26:3
 26:4 29:12,13 30:6 31:11 34:7,7
 34:18 37:10 38:4 39:13 40:17
 good-paying (2) 18:14 31:8
 government (1) 14:7
 grant (1) 20:11
 granted (2) 20:12 21:3
 granular (1) 11:5
 grateful (1) 19:24
 great (5) 11:17 15:15,20 16:22
 19:21
 greatly (1) 17:15
 green (2) 29:25 34:22
 greener (1) 14:25
 Greenpoint (1) 34:24
 Group (2) 2:4 7:13
 groups (1) 38:11
 grow (1) 33:17
 guards (1) 32:20
 guys (1) 23:12

H

Hall (1) 1:7
 hand (2) 4:15 42:19
 handle (1) 26:21

happen (6) 7:4 10:18 16:10,17
 20:9 36:25
 happily (1) 36:12
 happy (4) 34:11 36:7 37:18 39:25
 hard (3) 8:4 10:19 11:6
 hardworking (2) 18:7 31:9
 haul (1) 28:9
 hauler (3) 7:15 27:22 36:10
 haulers (6) 26:16 27:17,22 28:3,21
 37:20
 hauling (6) 5:4 27:6,10,18,19
 28:18
 health (2) 17:2 34:8
 healthy (1) 4:23
 hear (1) 11:12
 heard (1) 13:24
 hearing (15) 1:5,14 3:9 4:11 5:22
 5:25 6:5,5,8 12:7 14:22 29:13
 38:7 40:9,23
 hearings (3) 3:13 5:8 13:23
 heavy (1) 16:13
 held (1) 5:8
 Hellstrom (4) 2:7 24:2,3,4
 help (4) 16:24 29:10,10,11
 helped (1) 8:10
 helpful (3) 39:11,11,13
 herculean (1) 18:11
 hereunto (1) 42:18
 high (3) 14:15 24:25 34:6
 high-intensity (1) 32:20
 high-quality (1) 30:21
 higher (5) 11:16 15:2 23:3 27:19
 32:17
 highest-regulated (1) 28:12
 history (2) 12:15 26:20
 hit (3) 16:8,12,13
 hold (2) 3:9,13
 hope (4) 4:9,12 22:14 40:2
 hopefully (1) 29:19
 hopper (1) 32:22
 Hyman (1) 13:12
 Hyman's (1) 13:18

I

idea (1) 35:20
 ideas (1) 29:14
 IESI (2) 24:25 30:11
 IESI/PWS (1) 2:9
 immediate (1) 20:9
 impact (2) 3:19 5:15
 Imperiale (2) 39:4,4
 implement (2) 19:15 27:24
 implementation (1) 9:11
 implore (1) 17:4
 important (6) 12:8 27:15 38:16
 39:6,17 40:25
 improve (2) 5:20 22:24

Rate Cap Hearing
October 30, 2015

improvements (2) 25:13 33:3
inaudible (1) 34:21
incentive (2) 30:20 33:20
inception (1) 25:7
include (1) 29:18
includes (1) 3:22
including (5) 3:15 12:25 17:14
19:5 32:19
incomes (1) 24:15
inconsistent (1) 4:7
increase (16) 5:20 13:19 15:18,19
17:15 20:12,21 22:13 24:9 25:19
32:7,10,14 33:24 35:6 36:2
increased (11) 21:2 22:16 23:14
30:24 31:10,14,15,18,22,25 32:9
increases (1) 15:16
Index (1) 3:23
indicated (4) 3:6 6:19 39:14,21
individuals (1) 38:6
industries (1) 11:22
industry (34) 3:18,19,24 4:24 5:4
8:6 9:4,12,20,22 10:3 13:23,25
14:16 15:4,10,24 16:16,21,22
17:10,16 18:5 20:11 22:14 24:19
25:12,14,20 26:12,13,17 27:12
34:7
industry's (2) 8:25 9:16
industry-wide (1) 4:6
inflation (2) 15:17 17:13
informal (1) 20:13
information (6) 6:2 22:9,10,11,15
39:23
innovation (2) 9:7 27:11
innovative (1) 24:18
insurance (3) 31:13,14,15
insurances (1) 20:24
intangibles (1) 31:3
Integrity (4) 1:3 3:7 18:12 27:5
intelligent (1) 7:3
interactions (1) 27:18
interested (5) 3:15 5:24 29:13
39:16 42:16
interesting (1) 13:3
Interestingly (1) 14:4
introduce (1) 17:13
introducing (1) 19:8
invest (1) 13:8
investment (4) 10:17 11:8 25:11
25:13
investments (2) 19:9 32:23
involved (2) 5:10 22:17
involves (1) 22:4
inwhich (1) 6:12
issue (7) 4:9,15 5:16,23 11:20 12:9
22:15
issues (3) 4:13 5:17 29:6
item (1) 21:4

J

Jersey (3) 28:6,9,11
jobs (4) 18:14,15 27:11 31:8
jurisdiction (2) 30:15,17
justifies (1) 20:21

K

K (1) 2:2
keep (1) 26:23
keeping (1) 21:2
kept (1) 22:3
key (1) 28:19
kind (2) 6:17 35:20
know (19) 5:18 6:21,25 7:6,19 8:17
10:13,25 16:21 23:20 26:6,17
27:18 29:18 32:24 37:4,5 38:11
40:2
known (1) 21:12

L

labor (6) 8:11 15:2 20:15 24:6 34:7
36:10
Laborers (2) 2:7 24:5
Labors (1) 25:17
lack (1) 35:7
lame (1) 36:5
landfill (1) 26:9
language (1) 22:4
large (4) 4:20 13:5 21:8 38:11
larger (1) 16:5
largest (3) 7:14 8:22 30:12
late (2) 12:15 14:18
Laura (1) 39:4
law (4) 9:25 24:21 25:7 28:18
laws (1) 14:11
learned (1) 20:22
led (2) 14:8 32:16
left (2) 13:4 24:22
legally (1) 33:16
legislation (5) 26:22,24 27:13,15
28:20
let's (1) 28:15
level (1) 9:12
liability (1) 20:24
license (3) 27:5 28:10,12
licensed (3) 4:17 26:7 28:21
licensees (4) 4:2 18:13 21:4 33:2
life (3) 23:4 31:12 33:10
Lighthouse (2) 34:20,20
lighting (1) 32:20
limit (2) 6:17 33:14
limited (1) 10:4
line (1) 27:9
lines (1) 26:11
listed (1) 30:9
listen (2) 3:15 4:9
literally (1) 36:14

little (8) 8:5 10:22 13:17 22:4 35:9
36:4 37:12 38:19
live (1) 37:15
lives (1) 25:12
living (1) 24:13
LLC (1) 2:10
loaded (1) 35:16
loading (1) 32:21
local (6) 2:7 24:5 25:7,17 35:23
38:22
locality (1) 18:23
logistical (1) 26:15
long (2) 3:4 7:20
look (4) 11:9 17:9 36:11 37:18
looking (2) 9:8 33:17
looks (1) 23:6
lose (1) 36:20
losing (1) 13:13
loss (1) 21:10
losses (1) 21:16
lot (2) 8:24 10:5
low (2) 14:2 15:11
lower (1) 34:3
lowered (1) 12:16

M

maintain (1) 24:16
major (3) 12:19 20:19 21:4
majority (2) 4:19,20
maladies (1) 14:5
MAMARONECK (2) 1:22,23
manage (3) 18:8,16 38:12
management (3) 12:20 30:12 35:5
Manager (2) 17:23 24:5
mandates (1) 24:20
Manhattan (1) 34:21
Manufacturers' (1) 32:15
March (4) 31:19,20,22,23
margins (1) 27:22
market (13) 8:20 10:16 11:2,13
12:20,22 16:4,8 21:15 27:8,10
28:22 33:17
marketplace (5) 13:9,15,16 14:12
34:4
markets (5) 7:21,24 21:13,14
30:18
marriage (1) 42:16
material (3) 8:22 22:19 27:6
materials (2) 23:4 26:9
matter (2) 42:12,17
maximum (2) 3:10 4:8
mayor's (2) 12:23 33:14
mean (6) 29:9 35:14 36:22 38:18
39:2 40:20
Meaning (1) 36:13
means (1) 23:13
meat (1) 37:10

Rate Cap Hearing October 30, 2015

medical (3) 25:6 31:12,14
meet (4) 5:13 9:4 24:20 32:16
meeting (2) 13:11 15:21
meetings (1) 13:23
member (2) 12:11 34:25
members (4) 18:3 20:14 22:6,18
members' (3) 24:15,22 25:12
men (2) 18:7 32:21
mention (2) 22:2 27:16
mentioned (3) 9:23 33:5,18
message (1) 14:22
met (1) 38:18
metal (1) 21:18
metrics (1) 8:6
mid (1) 14:18
middle-class (4) 8:12 11:23 24:16
 24:23
Mike (3) 2:7 23:25 24:4
mind (1) 26:23
minutes (1) 6:18
misconception (1) 29:15
mix (1) 16:5
moderated (1) 21:5
moment (1) 26:20
money (3) 8:17 9:6 13:13
monitor (1) 5:16
month (1) 32:11
monthly (1) 36:3
months (4) 10:7 18:2 23:12 36:6
morning (11) 6:11 7:10 12:6 17:22
 18:3 24:3 26:3,4 30:6 34:18 37:3
Moss (4) 2:9 29:24,25 30:6
move (4) 8:14 17:6 22:21 29:19
moving (2) 25:20 39:14
multi-year (1) 32:4
myth (1) 10:22

N

N (2) 2:5 12:9
Nadma (3) 2:10 34:16,19
name (6) 6:14 7:12 12:9 17:22 24:4
 26:5
national (3) 12:10 17:24 18:4
nationwide (1) 13:7
natural (1) 30:20
necessarily (3) 6:19 23:9,17
necessary (1) 19:10
need (6) 4:24 6:18 8:2 25:8 27:12
 33:9
needed (4) 14:15 19:7 25:14,19
needs (2) 9:4 21:12
negotiate (1) 14:13
neighborhoods (1) 18:17
neighbors (1) 36:17
never (1) 13:9
new (45) 1:2,8,8,23 3:8,20 5:11
 8:22 9:25 11:13 15:21 17:13 18:2

18:5 19:8 20:3,10 21:24 22:2,22
 23:11 24:7,10,13,16 26:7,12,16
 27:7,11,21 28:6,9,11,11,18,20,20
 28:23 30:8,10 34:25 37:6 42:4,9
nonhazardous (1) 30:12
nonunion (1) 31:13
noon (1) 38:11
north (3) 30:13,15 34:24
Northeast (1) 17:23
notable (1) 8:9
Notary (1) 42:8
note (3) 8:18 19:12 32:25
noted (4) 21:6,9,12 41:4
notion (1) 10:12
November (9) 6:10 19:23 20:13
 30:25 40:12,15,17,22 42:19
number (4) 16:3,6 31:6 36:6
numbers (1) 10:10
NWRA (1) 2:6
NY (1) 2:6

O

objective (1) 3:14
obstacles (1) 26:15
obviously (7) 29:13 36:18 37:5
 38:16,23 40:21,25
occupation (1) 32:25
October (1) 1:10
offer (2) 8:13,14
office (3) 12:24 32:11 40:7
Officer (1) 1:14
offices (1) 22:18
oftentimes (2) 33:15 35:14
Oh (1) 37:2
on-board (1) 9:9
ongoing (2) 20:5 39:21
open (3) 3:5 22:3 28:22
operate (4) 25:4 30:13,15 34:10
operating (7) 14:10 16:2 28:8
 29:14 31:7 32:3 33:15
operational (1) 31:2
operations (1) 19:11
operator (1) 34:19
opportunity (8) 7:2,11,16 12:8
 20:2 23:5 30:7 35:3
option (1) 28:14
options (1) 10:4
oral (1) 6:6
order (3) 3:16 6:12 36:23
organic (4) 5:10 27:6,10 37:10
organics (14) 9:23,23 10:13 17:14
 19:16 26:25 27:14,19 28:8,9,13
 28:20 33:5,12
organization (1) 38:22
organized (2) 14:16 17:5
outcome (1) 42:17
outdoor (1) 36:16

outreach (1) 20:23
outside (2) 36:14 37:6
overall (1) 24:19
owned (1) 11:7
owner (3) 15:17 34:19 35:4
owners (1) 35:9
Oyster (1) 35:22

P

P (1) 2:2
packages (1) 32:20
packer (1) 32:13
page (1) 36:4
paid (1) 25:3
painstakingly (1) 26:18
paper (3) 8:21 21:17 30:2
paraphrase (1) 8:5
parent (1) 7:13
part (5) 18:3 29:4 34:5 37:14 41:2
particular (1) 8:21
parties (4) 3:15 5:25 39:16 42:15
partnerships (1) 25:18
Pasquale (7) 2:8 26:2,3,5,5 29:8
 29:21
pass (2) 15:22 33:17
passed (3) 15:22 19:23,25
pay (7) 15:14 21:23 33:2 36:7,12
 37:9,9
paying (1) 15:14
pension (2) 31:21,24
people (10) 6:17 15:12 16:23 29:9
 29:17,18 33:5 38:15,18 39:24
percent (27) 8:23 10:9 13:2,2
 15:15 16:4 17:11,12 18:8 20:18
 20:18 24:8 25:7 31:4,11,14,15,16
 31:19,20,22,23,25 32:15 33:18
 35:25 36:2
period (3) 7:23 20:17 21:19
periods (1) 32:2
permitted (1) 15:19
perspective (1) 4:13
pertinent (1) 6:2
petitioning (1) 22:6
phonetic (2) 34:23 39:5
physically (1) 32:22
pick (2) 37:2,16
picked (2) 36:14 37:4
picks (1) 30:9
pickups (1) 16:11
piece (1) 27:15
piles (1) 37:7
pivotal (1) 26:19
place (2) 4:16 18:24
plan (1) 33:15
planet (1) 28:25
plastic (1) 21:18
playing (2) 26:24 27:4

Rate Cap Hearing
October 30, 2015

please (3) 6:14 26:22 41:2
plus (2) 15:23 18:10
point (10) 12:18 16:8 17:9,12
18:20 19:20 21:7,25 33:11,12
pointed (2) 9:2,16
points (1) 39:13
polarizing (1) 28:2
policies (1) 14:21
policy (1) 17:6
polling (1) 20:13
pollute (1) 14:3
poor (1) 13:17
Port (1) 32:4
position (1) 21:22
possible (2) 18:16 40:22
possibly (1) 18:19
post (1) 32:11
postage (1) 32:8
power (1) 16:24
PPI (1) 3:24
practiced (1) 28:6
practices (3) 27:11 34:22 35:5
pre-2013 (1) 4:21
predecessor (1) 14:7
premium (1) 16:12
present (3) 6:4,6 20:3
presently (1) 9:8
pressure (2) 24:14 27:23
pressures (1) 24:19
prevailing (1) 21:20
prevents (2) 19:7,9
previous (1) 18:25
previously (1) 21:6
price (7) 3:23 11:20 16:8 21:5 32:7
32:8 37:19
prices (5) 11:16,24 14:13 16:7
32:17
pricing (2) 10:25 21:22
primary (1) 20:16
prior (4) 13:3,24 15:7 17:5
private (9) 3:11 5:12 11:7,7 13:6
18:5 20:11 24:7,10
privilege (1) 17:25
probably (3) 7:9 35:25 38:17
problem (1) 36:12
problems (1) 15:7
proceedings (41) 3:1 4:1 5:1 6:1
7:1 8:1 9:1 10:1 11:1 12:1 13:1
14:1 15:1 16:1 17:1 18:1 19:1
20:1 21:1 22:1 23:1 24:1 25:1
26:1 27:1 28:1 29:1 30:1 31:1
32:1 33:1 34:1 35:1 36:1 37:1
38:1 39:1 40:1 41:1 42:11,13
process (5) 5:23 7:19 9:10 20:3
39:22
processing (2) 19:15,16
produce (2) 33:20 37:11

produced (1) 18:9
Producer (1) 3:23
professional (1) 9:4
professionals (3) 9:20,21 11:22
profitably (1) 12:21
profits (2) 13:18 14:14
program (1) 33:15
programs (1) 19:8
progress (1) 26:18
Progressive (2) 30:7,10
Project (1) 35:22
properly (2) 9:2 12:21
property (1) 20:24
proponent (1) 4:5
proposed (1) 15:21
proposing (1) 28:6
protection (1) 4:3
proud (2) 8:13 25:17
provide (11) 5:2 8:6 11:23 18:13
23:5 30:20,23 31:8,12 34:11 36:8
provided (1) 33:9
providence (1) 30:16
providing (2) 19:6 26:10
provision (1) 7:24
public (3) 5:8 9:5 42:8
publicly (5) 7:7 13:5 28:17 30:9
32:3
purchase (1) 16:5
pushed (1) 13:19
pushing (1) 15:9
put (7) 4:16 10:8 12:24 24:14 27:21
35:12 36:24
puts (3) 16:2,16 24:19

Q

quality (1) 25:4
question (2) 9:3 23:9
Qwik-Tip (1) 32:21

R

R (2) 2:2 42:2
race (1) 11:19
radical (1) 30:5
raise (2) 10:19 37:19
raised (1) 4:23
range (1) 20:17
rate (64) 1:5 3:19,22 4:5,13,16,20
4:21,25 5:2,3,6 6:3 7:4,21,23
8:23 9:2 10:13,23 11:11 12:15,16
12:18,24 13:10,20 15:8,15 16:9
16:18 17:3,10 18:22,23,24 19:3,4
19:13,22 20:10,11 21:3 22:3,5,22
23:20,20 24:9,14 25:10,12,19,21
29:5 30:17,21 31:5 33:7,19,23,24
36:3,3
rates (8) 3:10 4:7,8 10:9 15:11
20:22 21:24 33:3

rational (2) 33:25 40:21
Rats (1) 37:4
reach (4) 7:3 29:19 39:7,8
reacting (1) 14:10
read (1) 3:3
Reade (1) 1:7
readily (1) 8:19
reading (1) 8:4
ready (1) 29:10
real (2) 24:23 25:9
realistic (1) 21:20
really (3) 35:2,10 36:3
rear-load (1) 32:13
reason (3) 13:10 40:18,18
reasonable (2) 4:2 29:19
reasons (1) 14:5
receive (1) 25:3
received (1) 6:9
receives (1) 6:8
recognize (1) 7:18
record (7) 6:5 18:20 19:21 22:2,20
40:6 42:13
recorded (1) 6:6
recover (1) 21:10
recovered (1) 34:10
recyclable (2) 21:17 26:9
recyclables (4) 18:9 30:10 35:13
35:16
recycle (6) 2:8 8:22 14:2 15:10
16:14 26:6
recycling (22) 5:9 8:19 12:10
14:24 17:13,24 18:5 19:6,10,17
20:20 21:11 23:11 26:7,10,21,25
27:14 28:8,10 29:7 34:2
reduce (1) 27:23
reduced (2) 33:14 35:25
redundant (1) 13:15
reeked (1) 36:17
referred (1) 3:23
reform (2) 12:24 16:18
Reforming (1) 27:7
reforms (1) 19:23
regard (1) 29:5
regarding (1) 3:10
regards (1) 28:8
regime (1) 17:5
Regional (1) 17:23
register (1) 4:18
registers (1) 22:12
regular (1) 21:14
regulate (1) 5:21
regulated (1) 33:7
regulation (2) 19:25 27:7
regulations (6) 3:9 10:2 16:16
20:10 27:24 28:7
regulatory (3) 19:23 26:15 30:18
reinitiating (1) 5:18

Rate Cap Hearing
October 30, 2015

reinvent (1) 8:2
reiterated (1) 19:20
related (1) 42:14
relevant (1) 3:25
relief (3) 21:3 22:24 25:9
remarks (2) 7:17 8:3
reminder (1) 31:16
removal (2) 3:12 27:9
removing (1) 25:10
reopening (1) 16:21
reported (3) 1:17 4:17 42:11
reporter (2) 6:4,15
reporting (2) 1:22 26:10
represent (1) 16:24
representative (2) 15:3 24:6
represents (1) 18:4
reprimands (1) 36:22
requested (2) 20:21 22:23
require (2) 5:12 16:15
required (6) 3:8 19:22 20:10 24:20
24:21 32:25
research (1) 27:17
respect (2) 5:6 26:20
respective (1) 31:25
respectively (1) 20:18
response (2) 38:8 39:19
restaurant (4) 34:23 37:15,16
38:19
restaurants (4) 16:13 36:9 38:24
39:3
restaurateurs (1) 37:9
restrains (1) 19:4
restricts (1) 24:17
result (1) 34:4
return (2) 4:2 21:21
revenues (2) 13:8 15:19
review (7) 19:22 20:10 21:18,24
22:9,13 40:9
revolutionary (1) 7:19
RICHMOND (1) 42:6
right (8) 7:9 29:22 30:2 37:8 38:21
39:20 40:19 41:3
rise (1) 11:22
risen (1) 25:6
rising (2) 24:13 25:5
risk (1) 27:21
river (1) 28:5
road (1) 24:25
robust (2) 4:23 14:12
Ron (4) 2:4 6:12 7:5,12
room (2) 15:13 29:17
rose (2) 32:6,13
route (3) 9:13 33:12,13
RTS (2) 26:6 28:17
rule-making (1) 22:22
rules (8) 3:8,20 4:4 5:9,11,11,14
23:11

run (2) 7:15 23:2
running (2) 20:19,23
rush (1) 6:19
rushed (1) 12:24

S

S (2) 2:2,2
safe (3) 19:18 23:2 36:8
safely (2) 18:16 25:4
safer (1) 11:24
safety (4) 8:16 32:19,23 34:8
Sal (3) 12:4 17:19 23:24
sanitation (5) 5:8 14:9,21 15:3
24:7
sat (1) 12:18
save (1) 15:12
saw (1) 10:8
scales (1) 34:8
schedule (1) 32:4
schedules (1) 32:5
scheduling (1) 12:7
scrambled (1) 12:22
scribbled (1) 36:4
seating (1) 36:16
second (2) 5:10 6:25
sector (1) 18:5
see (6) 9:19,19 10:24,25 18:21
35:14
seeing (1) 9:22
seek (1) 34:2
semi-annual (1) 4:18
send (2) 35:20 36:19
separate (2) 19:15 33:7
separated (1) 28:19
separating (2) 35:12,18
September (2) 31:21,24
serious (1) 35:5
serve (5) 3:16 18:18 25:16 34:3
36:13
served (1) 12:13
service (10) 12:21 14:23 16:15
18:13 27:25 30:21 33:6,9 36:7
37:8
services (5) 1:22 7:14 19:6,11
22:25
serving (1) 15:25
set (3) 9:20 23:20 42:18
severe (1) 21:16
shared (1) 13:12
Shari (1) 13:12
short (3) 10:18 14:17 33:10
showed (1) 13:13
shows (1) 29:9
side (4) 32:20,25 36:20 38:15
sidewalk (1) 36:20
sidewalks (1) 37:7
signed (2) 6:12 38:6

significant (1) 31:6
significantly (1) 27:19
simply (4) 15:16 16:18 17:12 27:21
sit (2) 14:19 30:2
sits (1) 36:23
six (3) 10:7 17:12,25
slow (1) 26:18
slower (1) 7:8
slowly (1) 6:15
small (2) 16:14 35:8
small-business (1) 35:4
smaller (2) 16:5 31:24
smart (1) 9:9
smell (2) 37:5,17
smelling (1) 36:15
solid (1) 8:12
solution (2) 27:2 28:4
solutions (2) 29:20 30:8
son's (1) 28:17
soon (1) 21:22
sort (10) 7:7 35:2,10,15,17 36:21
37:3 39:6,15 40:6
source (1) 28:18
space (1) 38:11
span (1) 36:6
speak (7) 6:11,13,14 7:6,8 10:14
25:22
speaker (5) 17:20 23:25 25:25
29:23 34:16
speakers (1) 18:21
special (2) 21:23 33:10
specialized (1) 19:6
specialty (1) 33:13
Spector (1) 1:7
speed (2) 7:9 33:14
spoke (1) 13:6
spur (1) 27:11
squeezed (1) 27:22
SS (1) 42:5
stamp (1) 32:8
stand (2) 24:9 25:19
standards (9) 4:8 14:2 15:2,21
17:16 24:21 27:24 32:16 34:7
start (1) 12:14
state (10) 3:17,20 4:4 6:14 13:23
28:7,12 30:16 42:4,9
stated (2) 14:18 15:9
statement (1) 6:6
statements (3) 4:10 6:16 40:15
states (1) 30:13
steak (2) 36:23,24
STENO-KATH (1) 1:22
Stenokath@verizon.net (1) 1:24
step (2) 10:12 17:8
Steve (4) 2:6 17:23 23:8 40:4
stewing (1) 36:15
Stock (1) 30:8

Rate Cap Hearing
October 30, 2015

strata (1) 13:8
streams (1) 17:14
street (2) 1:7 14:3
streets (1) 19:19
strictest (1) 28:7
striving (1) 25:2
strong (2) 21:14,21
strongly (1) 10:14
struggles (1) 27:16
studies (1) 4:10
submissions (1) 22:12
submit (5) 6:7 13:10 22:7 37:21
39:9
submitted (1) 8:3
subsidiary (1) 30:11
subsidizing (2) 8:24 33:22
substantially (3) 8:20 11:16 35:25
success (2) 17:2 28:19
suggest (3) 7:22 20:14 25:10
suggestions (1) 38:25
summer (1) 37:6
summertime (1) 36:13
sunset (1) 7:24
support (7) 5:3 7:21 10:2,14,16
11:18 24:9
supported (2) 4:10 10:3
supports (2) 28:12,17
sure (7) 5:17 10:6 30:4 35:23 37:3
38:3 39:15
surely (1) 28:13
surprised (1) 6:23
surprisingly (1) 8:8
sustainability (3) 5:14 11:17 34:22
sustainable (4) 24:16 25:9 27:7
37:10
swiftly (1) 22:21
systems (3) 2:8 26:6 32:21

T

T (4) 2:5 12:12 42:2,2
tackle (1) 17:6
take (9) 3:21 5:6 9:12 10:17 17:8
22:10,23,25 39:22
taken (2) 5:11 23:23
takers (1) 12:23
takes (4) 9:6,6,7,7
talk (7) 11:15 28:15 35:3 37:24
38:13,18 39:24
talking (2) 34:6 36:10
talks (1) 11:14
Tamir (8) 2:10 34:17,18,19 37:23
38:3,21 39:2
task (1) 18:11
taxes (1) 20:25
technically (1) 38:10
teeth (1) 31:17
tell (3) 13:16 15:4 16:23

tendency (1) 8:3
term (1) 10:18
terms (5) 8:15 9:12 23:13 29:6
31:3
test (1) 7:24
testify (1) 38:7
testimony (3) 12:8 30:23 39:9
thank (14) 7:10 12:2,6 16:20 17:17
17:18 23:7 25:22,24 28:25 30:6
34:13,15 41:3
Thanks (3) 7:11 25:22 29:22
they'd (1) 38:10
thing (1) 7:7
things (8) 3:4,5 10:20 15:5 16:22
19:5 23:18 38:17
think (11) 7:8 9:17 10:7 23:12,18
29:9 30:17 37:18 38:19 39:5
40:19
third (1) 30:11
third-generation (1) 12:12
third-world (1) 37:6
Thomas (2) 2:5 12:9
thousands (2) 18:7 32:10
three (3) 17:11 27:2 30:25
thrive (1) 28:22
throw (4) 10:11 17:5 23:23 32:22
time (15) 6:20 7:23 8:4 17:17 18:24
20:12,17 22:16 25:22 26:19 29:2
31:25 33:17 34:13 41:4
time-specific (1) 16:11
today (20) 3:14 6:4,8 13:21 14:5,9
14:20 15:25 17:17 18:21 19:3
23:18 26:19 29:25 30:7,22,23,25
34:13 39:12
toll (2) 32:4,5
tolls (1) 32:3
tomorrow (2) 10:23,24
tone (1) 11:12
top (2) 11:22 16:4
Toscana (4) 2:5 12:5,6,9
total (2) 16:2 23:21
toters (1) 33:10
town (1) 30:16
Track (2) 2:8 26:6
trade (13) 3:11,12,15,18,24 5:4,12
5:19 18:4,9 20:22 21:24 23:16
traded (1) 13:5
traditional (1) 27:9
traffic (2) 14:4 27:23
trained (1) 25:4
training (1) 9:8
transcribe (1) 6:16
transcript (1) 42:13
Transform (1) 34:25
transparency (2) 35:7 37:13
transportation (1) 27:20
trash (3) 15:11 32:22 34:25

treat (1) 26:21
tremendous (1) 27:23
trouble (1) 35:18
truck (5) 27:23 35:17,19,20 36:19
trucks (13) 7:15 9:10 14:3,25
17:14 19:18 32:12,19 34:8 35:14
35:15 36:8,11
true (1) 42:13
truly (1) 26:17
trust (1) 22:21
try (2) 7:3 23:19
trying (3) 15:11 23:15 27:25
Tully (1) 39:5
twelve (2) 10:7 30:13
two (13) 5:8 8:8,20 18:21 20:2,8,16
21:12 22:8 26:24 31:11 36:6
37:15
two-year (1) 19:22

U

unchanged (1) 12:18
unchecked (1) 24:22
underlying (1) 4:13
understand (5) 6:16 7:22 22:2,13
26:21
understanding (4) 3:17 4:12 26:14
35:9
unfair (1) 24:14
unfortunately (1) 21:15
union (6) 2:7 18:15 24:5 31:7,9,17
unionized (2) 24:7,8
unique (1) 11:13
unreasonable (2) 4:3,4
upgrade (1) 17:14
upgrades (1) 32:15
upset (1) 36:18
urge (2) 21:22 24:11
use (6) 9:20 22:14,24 23:3 36:15
36:22
useful (2) 23:4 39:13

V

validation (1) 27:20
value (4) 11:21 21:9,10,16
values (1) 21:21
variance (1) 10:9
vehicles (1) 32:6
versatile (1) 28:22
viability (1) 4:15
victory (1) 17:4
video (1) 6:6
view (2) 21:20,20
views (2) 7:2 29:13
vigorous (1) 30:19
village (1) 30:16
virtually (1) 13:14
vision (2) 31:12 33:14

**Rate Cap Hearing
October 30, 2015**

<p>vital (1) 32:24 voice (1) 40:25</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wage (2) 8:13 34:7 wages (11) 11:23,23 15:14,15,18 17:16 24:23 25:3 31:8,9,12 wake (1) 37:17 want (29) 7:22 8:14 9:5 10:15,21 11:5,21,21,23 12:14 14:23,24,25 15:2 16:11,12,14,22 18:20,25 21:7 28:24 29:10,11 37:13,13 39:22,24 40:21 wanted (1) 37:24 wants (3) 9:5,5 38:13 warrant (1) 3:14 wasn't (1) 39:12 waste (43) 3:11,12,16,18,24 5:4,12 5:19 12:10,20 17:24 18:5,9,16 19:6,10 20:19,22 21:24 23:3,4,16 24:10 26:7,12,21 27:6,9,19 28:10 28:19 30:7,10,12 35:4,7,13,15,16 35:24 36:14,21,25 way (7) 10:2 23:13 28:15 33:2 36:11 37:9 42:16 we'll (3) 3:5 21:25 40:20 we're (21) 6:17,20,23 8:13 9:8,10 9:18 10:3 11:6,7 22:6 29:10,13 30:22,23 33:17 34:11 36:10 37:14,18 39:15 we've (5) 19:20 21:16 22:22 29:15 32:18 weak (2) 21:14,15 weather (1) 18:12 weeks (1) 22:3 weight (2) 13:20 36:4 weight-based (2) 12:17,25 welcome (2) 3:2 20:4 welfare (1) 31:18 went (2) 12:25 36:5 west (2) 11:14,15 wheel (1) 8:2 WHEREOF (1) 42:18 Williamsburg (1) 34:24 windows (1) 36:17 wish (1) 6:11 within-entitled (1) 42:12 WITNESS (1) 42:18 women (1) 18:7 wonder (1) 35:17 word (1) 9:21 work (9) 5:13 10:15,16 18:2,12,18 26:25 27:14 35:22 workable (4) 27:2 28:4,14 29:20 workers (4) 9:7,8 17:16 24:7 Workers' (1) 20:25 workforce (1) 24:9</p>	<p>working (1) 23:6 workplace (1) 8:15 world (1) 28:2 worldwide (1) 13:7 Worse (1) 16:3 wouldn't (1) 10:24 wrap (1) 10:21 writing (1) 37:22 written (3) 6:7,9 8:3 wrong (1) 14:22</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>x (2) 1:4,6</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yardage (2) 12:25 13:20 yeah (3) 30:4 39:10 40:16 year (10) 3:10 5:5 6:10 8:12 13:2 13:22 15:16 23:21,22 35:21 year-round (1) 18:11 years (9) 8:8,21 9:24 13:24 20:3,8 21:12 22:8 31:11 York (27) 1:2,8,8,23 3:8,20 8:22 11:13 18:2,6 24:7,11,14,17 26:7 26:12,16 27:21 28:11,18,20 30:8 30:10 34:25 37:6 42:4,9 young (1) 28:16</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero (2) 23:3 33:14 zoned (1) 36:8</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>0.46 (1) 32:9 0.49 (1) 32:9</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>10 (1) 9:24 10:00 (1) 1:11 10:53 (1) 41:4 100 (2) 7:15 10:9 10007 (1) 1:8 10543 (1) 1:23 108 (3) 2:7 24:5 25:17 10th (1) 42:19 11.9 (1) 31:15 12.20 (1) 12:16 139 (1) 1:22 14 (2) 12:17 31:20 15 (1) 20:18 15-percent (1) 13:19 17 (3) 8:23 31:4 33:18 19 (1) 13:24 1947 (1) 12:13 1990s (1) 12:15 1993 (1) 19:24</p>	<hr/> <p style="text-align: center;">2</p> <hr/> <p>2-year (2) 7:23 9:11 200 (1) 36:2 2008 (1) 12:18 2013 (9) 4:17 13:11 19:24 20:13 21:3 30:25 31:19,22 32:14 2014 (4) 31:14,20,23,23 2015 (7) 1:10 31:15,16,21,24 32:14 42:19 2020 (3) 15:21,22 24:21 21 (1) 30:25 212.95.DEPOS (1) 1:23 22 (1) 1:7 225,000 (1) 18:10 250,000 (1) 15:23 258,000 (1) 32:13</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 (2) 13:2 15:15 3-axle (1) 32:5 3-percent (1) 15:18 3.7 (1) 31:23 3.8 (1) 31:22 30 (2) 1:10 13:2 300 (1) 25:6 30th (4) 6:10 40:15,17,22 32-percent (1) 32:7 32-yard (1) 32:13 35 (1) 16:4 357,000 (1) 32:14 38.50 (1) 32:6 39 (1) 32:15</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4.2 (1) 31:25 4.3 (1) 31:25 400 (1) 15:25 42 (1) 25:7</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5.25 (1) 31:10 5.7 (1) 31:14 50 (2) 24:8 35:25 50.83 (1) 32:7</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6.5-percent (1) 32:9</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 (1) 20:18 7.5 (1) 31:15 70,000 (1) 8:12 722-0816 (1) 1:24 75 (1) 18:8</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8.1 (1) 31:20</p>
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Rate Cap Hearing
October 30, 2015

8.7 (1) 31:19
800 (1) 24:6

9

90 (2) 16:3,4
90s (1) 14:18
914 (1) 1:24
914.381.2061 (1) 1:23
953-3767 (1) 1:23