

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

Submitted to the
New York City Business Integrity Commission
Honorable
Commissioner/Chairman

By
Andrew Moss, Government Affairs Manager
November 10, 2023



WASTE CONNECTIONS
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Waste Connections of New York, Inc. (“Waste Connections”), respectfully submits the following testimony regarding a regulatory increase to the rate cap of \$24.21 per cubic yard of loose refuse (volume), or \$15.89 per 100 pounds of refuse (weight) currently in effect today.

After historically high inflation rates incurred in 2021 and 2022, the annual inflation rate for the United States was 3.7% for the 12 months ended August, according to U.S. Labor Department data published on Sept. 13, 2023. This follows a rise of 3.2% for the 12-months ended July. These rates remain historically high and demonstrate increased rates on already inflated prices.

The Federal Bureau of Labor Statistics publishes the Producer Price Index for the Solid Waste Collection Industry which gives a more accurate picture of the cost pressures our industry is experiencing. This index has increased by nine (9.0) percent since the last September of 2022 (169.273 to 184.593). <https://fred.stlouisfed.org/series/PCU562111562111> and <https://fred.stlouisfed.org/release/tables?rid=46&eid=138259#snid=138304>.

As the above indicates, prices for the waste and recycling industry have continued to increase since the last rate cap adjustment. New York City, however, has also mandated a change in law that has had a significant impact on commercial carters. Beginning this past summer, the New York City Department of Sanitation has required certain commercial customers to begin putting their waste in sealed containers. By March of 2024, every commercial establishment will be required to do the same.

Very few commercial customers are purchasing their own waste container. Instead, they are relying on their carter to both provide and deliver multiple containers. The delivery cost for every container is roughly \$40 - \$45. Given that each customer will likely require more than one

toter, the total delivery cost will run in the hundreds of thousands of dollars and is not recoverable as a separate fee under current Business Integrity Commission regulations.

For the foregoing reasons, we respectfully urge the Commission to increase the maximum rate no less than nine percent and to do so as quickly as possible.

**WRITTEN COMMENTS OF
CENTURY WASTE SERVICES, D&D CARTING, M&M SANITATION & MR. T CARTING**

These written comments are being submitted on behalf of Century Waste Services, D&D Carting Co., Inc., M&M Sanitation Corp., and Mr. T Carting. Each of these companies (Licensees) is a BIC licensee. I testified on behalf of the Licensees at the BIC's rate cap hearing on October 11.

For the reasons set forth hereafter, Licensees request a rate cap increase of at least 9.90 percent. The current rate caps are \$24.21 per cubic yard and \$15.89 per 100 pounds. The BIC announced these rate caps in September 2022. Therefore, for purposes of the Licensees' analysis and comments, August 2022 is suggested as the "base month" when considering whether costs have increased.

Licensees' October 11 testimony focused largely on disposal costs and congestion pricing, which are discussed below. However, because labor costs are one of the single biggest costs of doing business as a solid waste collection company in New York City, we also are providing data concerning labor cost increases that each Licensee has experienced since August 2022.

I. Disposal Cost Increases

Along with labor costs, disposal costs are one of the two biggest expenses for BIC licensees. The majority of carters in New York City do not own transfer stations or other disposal facilities. Instead, they pay to dispose (tip) the waste they collect at transfer stations in New York City or northern New Jersey or at waste-to-energy facilities in New Jersey or on Long Island.

The cost of waste disposal in the New York City metropolitan area has increased substantially in recent years.¹ This is due to a number of factors. One of the primary catalysts for the recent tip fee increases was New York City's reduction in the permitted transfer station capacity pursuant to Local Law 152. This law, passed

¹ According to a recent report issued by the Environmental Research and Education Foundation (EREF), disposal costs at landfills increased by more than eleven percent in 2022, the largest annual increase since 2018. <https://erefdn.org/2022-msw-landfill-tipping-fees/> (June 12, 2023). Such increases are passed on to transfer stations, who then raises their tip fees to maintain profitability.

in 2018, required reductions in permitted disposal capacity at both putrescible and non-putrescible transfer stations in designated community districts in the South Bronx, North Brooklyn, and Southeast Queens. More than 10,000 tons of transfer station disposal capacity was eliminated as result of the Department of Sanitation’s implementation of Local Law 152.² Approximately 2,774 tons of putrescible transfer station capacity was eliminated.³ In a city that generates more than 10,000 tons per day of commercial “putrescible” solid waste, it is not surprising that transfer stations are taking advantage of this and raising prices.⁴

Since August 2022, disposal prices paid by solid waste companies, including Licensees, have increased substantially.

Licensee 1 – 5 percent increase

Licensee 2 – 9-19 percent increase

Licensee 3 – 17 percent increase

Licensee 4 – 9-26 percent increase

Other licensed carters surveyed by Licensees have similarly experienced substantial disposal cost increases since August 2022:

Carter 1 - 21 percent increase

Carter 2 – 5 percent increase

Carter 3 – 9-20 percent increase

Carter 4 – 31 percent increase

As noted above, transfer stations in the New York City metropolitan area that receive waste collected by BIC licensees have raised their tip fees in response to Local Law 152’s capacity reduction, landfill disposal increases, and overall market conditions. Licensees contacted several such transfer stations that are not owned

² https://www.brooklynpaper.com/wp-content/uploads/2020/12/LL-152-Report_WasteEquity_2020_Final-1-1.pdf (Nov. 2020).

³ Id. at 7.

⁴ Due to the impact of the COVID-19 pandemic on commercial waste volumes in 2020-2021, the initial market response to transfer station capacity reduction may have been somewhat muted. The rate of tip fee increases at transfer stations in New York City has accelerated in recent years, and it is widely expected that several transfer stations will be notifying carters of a new and higher tip fee in December 2023, taking effect in January 2024. Licensees reserve the right to supplement the record with such information.

by large integrated solid waste companies and requested their “gate rate” information. The gate rate is the market rate for disposal in the absence of a pre-existing contractual agreement between a carter and a disposal facility. Some of the putrescible waste collected by carters from commercial customers in New York City is disposed of at the gate rate, and this provides a useful comparative measure for assessing changing market conditions. The gate rate information from these two transfer stations is consistent with the company-specific disposal data provided above:

| | August 2022 | October 2023 | Rate of Increase |
|--------------------|-------------|--------------|------------------|
| Transfer Station A | \$105/ton | \$115/ton | 9.5 percent |
| Transfer Station B | \$115/ton | \$125/ton | 8.7 percent |

Transfer Station A anticipates the landfills to which they ship solid waste will notify them in December that the cost of disposal at those landfills will be increasing. Licensees will provide any such notifications to the BIC in a timely manner.

Transfer Station B sends most of the waste it consolidates to waste-to-energy facilities. The corporate owner of these facilities has already advised Transfer Station B that a six to eight percent increase in tip fees should be expected in early 2024.

The data collected by Licensees demonstrates conclusively that disposal costs, which comprise between one-third and half of a licensed carter’s overall expenses, have increased substantially more than the Producer Price Index over the past 15 months. The data can be combined as follows:

- Licensees – 5 to 26 percent increase, with an average of 10-17 percent
- Carters – 5 to 31 percent increase, with an average of 16.5-19.2 percent
- Transfer Stations – 8.7 to 9.5 percent increase, with an average of 9.1 percent.

The midpoints for the average increase for Licensees is 13.5 percent, 17.85 percent for the four carters, and 9.1 percent for the two transfer stations. Although only a small percentage of waste collected by licensed carters pays the higher “gate rate,” for purposes of this analysis, Licensees will conservatively

assume all three data points have equal weight. The average of the midpoints for Licensees, carters, and the two transfer stations is 13.483 percent. **Licensees content that disposal costs for licensed carters have increased by at least 13.5 percent over the past 15 months.**

In addition, as the economic recovery from the COVID-19 pandemic continues, Licensees expect New York City businesses will generate more waste in the future. This will result in increased upwards pressure on disposal costs in 2024 and beyond.

II. Labor Cost Increases

Labor is one of the two biggest expenses that solid waste companies regulated by the rate cap incur. Labor costs have accelerated nationally over the past several years. The federal Bureau of Labor Statistics (BLS) recently reported “wages and salaries” increased by 4.6 percent for the 12 months ending September 2023. <https://www.bls.gov/news.release/pdf/eci.pdf> (Oct. 31, 2023). If the fifteen month period from August 2022 through November 2023 is considered, the increase likely exceeds 5.5 percent.

Similarly, virtually all carters in New York City have been forced to increase salaries and improve benefits in recent years. It is difficult to recruit and retain qualified drivers and mechanics to work in the solid waste industry.⁵ As a result of heightened inflation over the past several years, New York City solid waste companies were forced to increase wages and benefits to retain existing employees. At some companies, union contracts include automatic wage increases. These increases took place at Licensees as well. In addition, employers in many other industries increased wages and improved benefits to attract and retain employees in 2022-23, which forced most licensed carters to do the same for front-line workers, supervisors, and administrative personnel.

⁵ <https://www.wastedive.com/news/swana-waste-recycling-driver-bonuses-recruitment-respect/619880/> (March 7, 2022).

Labor Costs – August 2022 vs. November 2023

Licensee 1 – Drivers’ and helpers’ wages increased by 5.2 percent and 5 percent, respectively. An additional three percent wage increase will be provided in Spring 2024.

Licensee 2 – 2.75 percent increase in wages for drivers/helpers and a ten percent increase for administrative staff.

Licensee 3 – 9.4 percent increase in wages for some drivers.

Licensee 4 – 8 percent increase in wages for drivers and helpers. Although this Licensee’s union contract required at least a three percent increase, it raised its wages by more than the minimum in order to attract and retain front line workers.

Licensees’ labor costs for drivers and helpers (wages only) have increased between 2.75 and 9.4 percent. **The average increase in wages for the four Licensees was 6.3 percent since August 2022. This is consistent with BLS data suggesting a nation-wide increase in “wages and salaries” of more than five percent over the past fifteen months.**

III. Congestion Pricing

When the BIC evaluates whether a rate cap adjustment is warranted, it typically reviews the extent to which costs have increased since the most recent rate cap increase. The discussion of labor and disposal costs above is consistent with that approach – looking backwards at how costs have increased to justify a rate cap increase that will take effect in the future.

Licensees’ believe the impending and likely implementation of “congestion pricing”⁶ in New York City requires the BIC to consider whether the additional expenses that some carters will be forced to incur should be part of this rate cap evaluation. The scope of the BIC’s authority to consider factors relating to the rate cap is broad and requires the BIC to provide for maximum rates “based upon a fair and reasonable return to the licensees and shall protect those using the services of such licensees from excessive or unreasonable charges.”

⁶ Formally known as the “Central Business District Tolling Program.” <https://new.mta.info/project/CBDTP>

Government officials intend to impose a new toll by Spring 2024⁷ on virtually all vehicles that operate in Manhattan south of 60th Street. This program is intended to reduce traffic in lower and midtown Manhattan and expected to provide \$15 billion for the Metropolitan Transportation Authority (MTA). The MTA's Traffic Mobility Review Board (TMRB) met last month and it appears that congestion pricing will begin by Spring 2024. Congestion pricing-related sensors on Central Park West at 60th Street are scheduled to be installed shortly after the 2023 Thanksgiving Day parade.⁸

The precise amount of this new charge for cars and trucks has not yet been determined. It is also unclear whether a truck that enters the congestion pricing zone more than once during the night would be required to pay one toll or multiple tolls. The TMRB will soon make recommendations to the Triborough Bridge and Tunnel Authority (TBTA) for the congestion pricing toll applicable to passenger cars and trucks, and also the extent to which exemptions may be provided for nighttime drivers.⁹ According to numerous published reports, this new toll for passenger cars will be at least fifteen dollars.¹⁰ Congestion pricing for large trucks, including garbage trucks, is expected to be approximately three times the amount charged to regular cars.¹¹ Therefore, it appears likely that the new congestion pricing toll for private sector solid waste collection vehicles entering Manhattan south of 60th Street will be about \$45.00 per truck entry.

There are tens of thousands of commercial customers located in Manhattan south of 60th Street. They are currently served by hundreds of solid waste collection vehicles on a daily basis.¹²

⁷ <https://www.torchonline.com/opinion/2023/10/24/congestion-pricing-new-york-citys-latest-expense-coming-in-2024/> (stating congestion pricing may start in April 2024); <https://nypost.com/2023/10/20/nyc-congestion-pricing-infrastructure-delayed-until-after-thanksgiving-parade/> (MTA Chair states congestion pricing will begin in Spring 2024).

⁸ <https://nypost.com/2023/10/20/nyc-congestion-pricing-infrastructure-delayed-until-after-thanksgiving-parade/> (Oct. 20, 2023).

⁹ <https://new.mta.info/project/CBDTP>

¹⁰ See, e.g., <https://news.yahoo.com/nyc-congestion-pricing-much-cost-023350370.html> (Oct. 2, 2023).

¹¹ <https://new.mta.info/document/122736> (slides 11-14). In all scenarios considered at this meeting, large trucks will be charged three times the amount charged to passenger vehicles. It is unclear whether solid waste collection vehicles will be eligible for any of the nighttime discounts being considered by the TRMB, or the amount of such discounts.

¹² These vehicles include trucks collecting solid waste, recyclables, and food waste, which many customers put out separately and are required to be collected separately by BIC licensees. The BIC likely can calculate how many solid waste and recycling trucks are currently servicing customers south of 60th Street in Manhattan. There are six

Assuming, conservatively, that 300 solid waste collection vehicles would be subject to a \$45.00 CPS pricing charge on a nightly basis¹³, the total cost for the industry can be easily calculated:

$$300 \text{ trucks} * \$45 * 312 \text{ (assumes 6 day/week service)} = \$4,212,000$$

It would be unfair for the New York City solid waste industry to be forced to incur this new, multi-million dollar government-ordered expense without the ability to recover it from applicable customers. Licensees, all of whom have many customers in Manhattan, as well as other BIC licensees, should not be forced to wait until a future rate cap increase in 2026 to cover these new expenses. The BIC should consider authorizing a conditional “Congestion Pricing Surcharge” that would take effect only if congestion pricing takes effect. This Congestion Pricing Surcharge (CPS) would be applicable only to customers in Manhattan south of 60th Street.

Although Licensees defer to the BIC on an appropriate calculation of a Congestion Pricing Surcharge, we offer the following suggested methodology as a possible model:

Most solid waste collection companies, including Licensees, service Manhattan customers using multiple trucks each night to collect solid waste and recycling. Some customers are serviced by three trucks (solid waste, recyclables, food waste, bulk pickup). Many trucks work 24 days per month (there are fewer routes into Manhattan on Sunday). Assuming a \$45 congestion pricing toll and most customers have at least two trucks collecting their waste and recycling, and a Manhattan route has an average of 200 customers, then each customer is responsible, on a nightly basis, for 1/200 of the \$90 in Congestion Pricing tolls paid (45 cents). Assuming service 24 nights per month, 45 cents times 24

Commercial Waste Zones (CWZ) entirely within lower and midtown Manhattan, and a seventh zone is partially south of 60th Street. The City Council’s Committee on Sanitation & Solid Waste Management’s October 24, 2023 report concerning worker safety cites an article stating that 26 carters service West 57th Street. Committee Report at 7 fn 29. A different analysis concluded that 27 companies service a five block area near Rockefeller Center. <https://www.propublica.org/article/trashed-inside-the-deadly-world-of-private-garbage-collection> (Jan. 4, 2018).

¹³ Some carters, including Licensees, have Manhattan routes in which the truck collect waste from customers until the truck is full, leaves Manhattan to dump the load at a transfer station outside of Manhattan, and then returns to Manhattan a second time in the same night to collect waste from other customers. It is unclear whether such a truck would be required to pay a single toll or multiple tolls, particularly if the truck’s second entry into Manhattan occurs on a different day than the initial entry (i.e., after midnight).

equals \$10.80. An appropriate and reasonable CPS would be \$10.80 per month per customer.

IV. Other Cost Increases

A. Containerization

Over the past few months, most carters have incurred new and unanticipated costs associated with providing containers to tens of thousands of customers due to the Department of Sanitation's new waste containerization rules. In addition to paying \$40-50 per container, the use of containers slows down collection, as carters' employees often need to unlock the container from a signpost or structure to bring it closer to the truck, or need to manually unload each of the bags in the container before placing them in the back of the truck. This is making routes take a longer time, and in the solid waste collection business, time is money.¹⁴ Licensees' estimate that containerization is extending routes an average of 20 minutes. Based on an overall operating cost of \$150 per hour, this translates into \$50 of additional expenses, per truck. Assuming that a truck collects 30 tons per night, the extra cost can be calculated in rate cap terms at approximately 0.09 cents per 100 pounds:

\$50 divided by 60,000 pounds (30 tons) divided by 100 = 0.09 cents

¹⁴ Containerization is not the only recent development that is increasing operating costs for licensed carters in New York City. The increased outdoor seating at restaurants associated with the pandemic, combined with the proliferation of bike lanes, is making it more difficult for traditional 25 yard waste collection vehicles to navigate some streets. As a result, some carters, including at least one Licensee, is using smaller trucks for tighter streets and blocks. The cost to purchase these trucks is not insubstantial, and using them to collect waste and recyclables is less economically efficient than larger trucks.

The added operational cost of the Department of Sanitation's containerization rules is approximately 0.09 cents per 100 pounds, and the BIC should include this new expense in its consideration of new rate caps.

B. Trucks

The cost of new trucks has increased substantially over the past few years. They have increased for a variety of reasons, including new environmental regulations, increased commodity costs, and limited supply following the COVID-19 pandemic.

A truck supplier who sells waste collection trucks to a Licensee and other BIC-regulated carters provided current and historical information concerning the cost of trucks that reflects the increases over the past few years:

2021 calendar year manual transmission trucks - \$217,000

2021 calendar year automatic transmission trucks - \$230,000

2022 Calendar year automatic transmission trucks - \$275,350

2023 Calendar year automatic transmission trucks - \$305,000

The cost of an automatic transmission truck increased by 10.8 percent in 2023. Similarly, a different Licensee purchased a new rear load truck in 2020 for \$225,000. The same Licensee purchased a virtually identical new truck from the same company earlier this year for \$340,000 – a nearly 50 percent increase in just three years.

Although these data do not line up precisely with the fifteen month period between August 2022 and November 2023 discussed above, they provide further support for Licensees' assertion that costs for BIC licensees are increasing substantially, at well above the rate of increase in the Producer Price Index.¹⁵

C. Maintenance and Insurance

The cost of maintaining and repairing solid waste collection vehicles has increased substantially since August 2022. One of the Licensees has experienced a 22

¹⁵ In addition to the trucks being more expensive, interest rates have risen substantially since August 2022. Most purchases of new waste and recycling collection trucks are financed, so the higher interest rate means the total cost of ownership for the truck is much higher than they were in September 2022 when the BIC last adjusted the rate cap.

percent increase in this expense – which adds more than \$10,000 per month in new costs for this one licensed carter. Another Licensee paid a 12 percent increase in insurance costs this year, despite an improved safety record in 2022 compared to 2021.

CONCLUSION

Disposal costs increased by at least 13.5 percent and labor costs increased by approximately 6.3 percent over the past 15 months. Disposal and labor costs are the principal expenses incurred by Licensees and other carters that collect waste subject to the BIC's rate cap from commercial customers. There have been cost increases in other areas as well, as identified above. If labor and disposal costs are weighted equally, the average increase for them over the past 15 months would be 9.9 percent.

In conclusion, Licensees request a 9.90 percent increase to the current BIC's rate caps. The substantial increase in disposal costs over the past 15 months, combined with the steady rise in labor costs and other expenses, with new congestion pricing looming on the horizon, compel such a rate cap increase. In addition, Licensees' urge the BIC to move swiftly in proposing and implementing a rate cap increase in the coming months.

Thank you for the opportunity to submit these written comments. Please contact me if you have any questions at David@Bidermanconsulting.com or 703-967-2616.

Sincerely,



David Biderman on Behalf of:

Century Waste Services
D&D Carting Co., Inc.
M&M Sanitation Corp.
Mr. T Carting

November 13, 2023



Northeast Region

October 11, 2023

Commissioner Elizabeth Crotty
Business Integrity Commission
100 Church Street, 20th Floor
New York, NY 10007

Dear Commissioner Crotty,

NWRA represents the private sector waste and recycling services industry. Association members conduct business in New York City and all 50 states and include companies that manage waste collection, recycling and medical waste, equipment manufacturers and distributors, and a variety of other service providers. NWRA represents the hardworking men and women of the chapter who collect and manage the waste produced by the 100,000 plus commercial entities in this great city.

I would like to reiterate NWRA's longstanding request since these hearings began, which is to eliminate the Rate Cap completely. It's obsolete and outdated and should be done away with. Let these trade waste companies that are fully vetted and licensed work out a pricing system that works best for them and their customers.

But, if the Rate Cap is to be kept, we will continue to push for a minimum rate at which below waste recyclables and organics cannot be collected and managed in the city without sacrificing safety. This continual race to the bottom exacerbates our members' best efforts to improve service with better equipment, drivers, and standards for the industry.

Our members have invested heavily in improving service to our customers, specifically during these challenging times. This is all on top of new impending regulatory cost imposed by the DSNY for the new containerization program which will begin in 2024. At an estimated \$40-\$45 per container, this looks to add additional hundreds of thousands for haulers next year alone.

The Producer Price Index for solid waste collection is up 9% as well since last year. Producer prices for goods rose 2.2%, while prices for services rose 2.9%. The waste and recycling industry is not immune to this, as we have seen with increased costs in fuel and materials along with labor costs increasing 3% and tipping fees 6% in the last year. This is in addition to inflation being at 3.7%, up from last month's 3.2%.



Northeast Region

Collecting waste and recyclables is a huge task done every day. Our members do it in good weather, bad weather, and during a pandemic not seen in this country in over a hundred years. We continue to be good corporate citizens and work as safely as possible in the neighborhoods and the community we serve. That is why we are respectfully requesting an increase in the maximum rate cap going forward.

Sincerely,

Lewis A. Dubuque

Lewis A. Dubuque
Vice President, New York City Chapter
National Waste & Recycling Association