

NYC - Business Integrity Commission
April 9, 2018

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THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
AMENDMENT OF MAXIMUM RATES
ALLOWED FOR HANDLING OF TRADE WASTE
PUBLIC HEARING

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April 9, 2018
2:05 p.m.

100 Church Street
New York, New York

Julia M. Speros
Court Reporter

NYC - Business Integrity Commission
April 9, 2018

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

Patrick Z. Scotti
Executive Agency Counsel and
Market Manager of NYC BIC

Salvador Arrona
NYC BIC Director of Policy

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PROCEEDINGS

MR. SCOTTI: Good morning and welcome to today's public hearing. The time is 2:05 on Monday, April 9, 2018, and we are in the 2nd floor conference room of 100 Church Street.

My name is Patrick Z. Scotti. I am the Executive Agency Counsel and Market Manager of the New York City Business Integrity Commission. Thank you for attending today's hearing.

The Commission is conducting this hearing pursuant to the requirements set forth by the City Administrative Procedure Act, commonly referred to as "CAPA". The purpose of this hearing is to receive comments from the public on the Commission's proposed rules regarding the amendment of maximum rates allowed for collecting and disposing of trade waste.

The Commission published the proposed rules in the City Record on March 6, 2018. We also disseminated a copy of the rules via email to all New

1 York City local elected officials, the
2 managers of all 59 Community Boards,
3 several media organizations in the City,
4 and other interested parties. Lastly,
5 we posted the proposed rules on both the
6 Commission's and the NYC Rules'
7 websites.

8 In summary, the Commission is
9 proposing to amend Title 17 of the Rules
10 of the City of New York to raise the
11 maximum rates that private carters can
12 charge for removal of trade waste by 5.6
13 percent. This rate would apply to
14 refuse, organic waste, paper, cardboard,
15 metal, glass, and plastics.

16 As background for this hearing, the
17 Commission is authorized to set by rule
18 the maximum rates, by weight and by
19 volume, that trade waste haulers can
20 charge for the removal of putrescible
21 and traditional recyclable commercial
22 waste.

23 The maximum rates were previously
24 adjusted in 2016. The Commission must
25 base any changes to the maximum rates on

1 a fair and reasonable return to the
2 private carters who provide trade waste
3 removal services to commercial
4 establishments in New York City while
5 also protecting those using these
6 services from excessive or unreasonable
7 charges.

8 To achieve this balance, the
9 Commission established an administrative
10 procedure that provides greater
11 transparency, standardization, and
12 regularity in the rate-setting process.

13 Pursuant to Commission rules, a
14 hearing was held on October 18, 2017
15 relating to the maximum rates charged by
16 a private carter for the collection,
17 removal, disposal, or recycling of trade
18 waste. The hearing was attended by
19 representatives of the trade waste
20 industry and other interested parties;
21 some of whom testified at the hearing
22 and submitted written testimony.

23 The Commission has carefully
24 evaluated the evidence provided
25 throughout the process, including the

1 oral statements made at the October 2017
2 hearing, and the written statements
3 submitted both prior to and after the
4 hearing.

5 In accordance with Title 17 of the
6 Rules of the City of New York, Section
7 5-02(g), the Commission has reviewed
8 various relevant factors affecting the
9 trade waste industry and its customers.

10 Those factors include, but are not
11 limited to, the Producer Price Index
12 published by the U.S. Department of
13 Labor, Bureau of Labor Statistics, data
14 contained in private carters' financial
15 statements filed with the Commission,
16 and certain data relating to increases
17 in operating and capital costs provided
18 to the Commission by members of the
19 trade waste industry.

20 Based on its review, the Commission
21 proposed to increase by 5.6 percent the
22 current maximum rates that trade waste
23 haulers can charge, from \$18.87 per
24 cubic yard or \$12.38 per 100 pounds to
25 \$19.93 per cubic yard and \$13.07 per 100

1 pounds.

2 The Commission also has made some
3 plain language revisions to the rule
4 relating to rates in the trade waste
5 industry.

6 That concludes the summary of the
7 proposed rule changes at issue at this
8 hearing. You may present an oral
9 statement for the record or submit
10 written comments concerning the proposed
11 rule changes.

12 Additionally, the Commission has
13 been accepting written comments on the
14 proposed rule since the publication in
15 the City Record, and will continue to do
16 so through the close of business today.

17 The Commission will make available a
18 copy of any written comments that are
19 received in connection with today's
20 hearing on its website. The Commission
21 will carefully review and consider all
22 comments and submissions and make
23 changes, if the Commission deems them
24 necessary. The rules will go into
25 effect 30 days after they are published

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1 in the City Record.

2 We will begin by calling those of
3 you who wish to speak this morning -- or
4 this afternoon -- in the order in which
5 you have signed in. When you speak,
6 please state your full name and
7 affiliation, and speak slowly and
8 clearly so that the court reporter can
9 understand and accurately transcribe
10 your statement. We ask that you limit
11 your statement to five minutes.

12 The Commission's Director of Policy,
13 Salvador Arrona, will now begin calling
14 up members of the public to testify.

15 MR. ARRONA: Our first speaker is
16 Ron Bergamini from Action.

17 MR. BERGAMINI: Thank you. Good
18 afternoon everyone. My name is Ron
19 Bergamini. I'm the CEO of Action
20 Environmental Group. We're the parent
21 company to Action Carting, the largest
22 private hauler of solid waste in New
23 York City.

24 At the hearing of October 18, 2017,
25 I testified on the merits of the rate

1 cap and additional cost facing all
2 responsible solid waste companies.
3 Please refer to that testimony for your
4 review, as it frames the discussion in
5 terms of business fundamentals affecting
6 all industry participants.

7 We feel the need for a rate cap has
8 passed. The basic economic problem with
9 any artificial price restraint is that
10 it distorts markets. One consequence is
11 less investment and less customer
12 choice. These are hardly the goals of
13 an enlightened industry.

14 I would also like to echo and
15 support the written testimony of Mr.
16 Steve Changaris, C-H-A-N-G-A-R-I-S, the
17 New York City Chapter Director of the
18 National Waste and Recycling
19 Association.

20 As a member of the BIC's Trade Waste
21 Advisory Board, I share the
22 responsibility of conveying the
23 challenges and goals of the industry.
24 In today's testimony I would like to
25 address two critical and related issues

1 that have drastically changed the
2 recycling landscape in New York City and
3 beyond since October, my last testimony.

4 The first issue concerns the City's
5 new mandate with respect to commercial
6 recycling. Our company has put three
7 additional trucks on the road to better
8 manage clean recyclable materials. The
9 monthly cost of having an additional
10 truck in service is at least \$20,000.

11 While we share the general goals of
12 recycling, contrary to public belief,
13 recycling costs more to process than
14 solid waste.

15 The second issue is even more
16 profound. The international recycling
17 market has been upended by new policies
18 instituted by China. China has long
19 been the dominant player as the biggest
20 importer of recyclable products such as
21 plastics and fiber-based products.

22 Beginning January 1, 2018, China
23 banned 24 types of solid waste,
24 including unsorted paper and various
25 plastics. Additionally, the bales of

1 acceptable paper and cardboard must meet
2 an unworkable standard of .5 percent
3 contamination, whereas, previously, the
4 standard was 2 percent.

5 In many parts of the United States
6 mixed paper is going to landfills. The
7 problem is not that the market is soft;
8 there is no market.

9 A year ago a ton of OCC -- commonly
10 called cardboard -- sold for \$200 per
11 ton; today, the price is about \$65.
12 Mixed paper sold for \$150 per ton a year
13 ago; today it's worth zero. You simply
14 cannot move it.

15 Unlike previous movements in these
16 markets, this time is different in that
17 market forces are not causing the
18 decline. Instead, a radical shift in
19 China's public policy is the cause.
20 There are no indications that this
21 situation will change in the near or
22 mid-term.

23 Markets in this country and others
24 may eventually increase demand to deal
25 with the great disparity of supply. At

1 best this is several years away. I
2 would urge the Commission and members of
3 the public to simple Google "recycling
4 markets China" to learn about the impact
5 this policy shift is having all over the
6 world.

7 Further, you can listen to a
8 conference call from just this past
9 Friday where Michael Hoffman,
10 Environmental Services Analyst for
11 Stifel Capital Markets, who interviewed
12 Bill Moore of Moore & Associates, to
13 discuss the China impact on recycling
14 markets. It's about a half hour long;
15 you'll learn plenty.

16 One obvious forward looking
17 consequence is that prices charged for
18 the collection of solid waste and
19 recycling must change to reflect the
20 industry's changing economics. Thus, I
21 would urge a rate cap increase of at
22 least 20 percent.

23 I would also urge the BIC not to
24 wait the traditional two years to review
25 the rate cap, but to do so annually

1 until the day when this artificial
2 restraint on the market has ended.
3 Thank you.

4 MR. ARRONA: Thank you, Ron.

5 Our next speaker is Andy Moss from
6 Waste Connections.

7 MR. MOSS: Good afternoon everyone.
8 My name is Andrew Moss. I'm the
9 Government Affairs Manager at Waste
10 Connections in New York City.

11 Waste Connections is the only
12 publicly traded company collecting and
13 transporting solid waste and recyclables
14 in New York City.

15 At the October 18, 2017 hearing, I
16 testified on the additional cost facing
17 all responsible solid waste companies,
18 mainly due to the increased regulatory
19 burden New York City haulers face.

20 I've sent in an updated version of
21 that testimony for the Commission's
22 review, as I believe it captures not
23 only the regulatory cost increases, but
24 also the annual operating cost increases
25 the industry has encountered since the

1 last rate adjustment.

2 The major issues I'd like to address
3 at today's hearing concern the City's
4 mandate with respect to commercial
5 recycling and emissions.

6 Our company has put additional
7 trucks on the road to collect an
8 increased amount of recyclable material,
9 that the change in the commercial
10 recycling rules, not surprisingly, has
11 led to.

12 Before the change in law that made
13 commercial recycling essentially the
14 same as residential recycling -- not
15 every commercial customer had to
16 separate glass and plastic; now they do.
17 The monthly cost of having an additional
18 truck for us is approximately \$30,000.

19 Another change affecting the
20 industry is Local Law 145, which
21 requires all waste trucks to meet 2007
22 emissions or better by 2020. Simply
23 put, the law requires a tremendous
24 amount of capital investment in truck
25 equipment.

1 New trucks cost \$370,000 when
2 outfitted with the latest technology and
3 safety equipment. Our fleet is over 100
4 trucks.

5 The economics for every waste
6 company are the same; we have to pay for
7 fuel, for our workers' salaries -- good
8 working middle-class salaries by the way
9 -- the cost of tipping the garbage or
10 recyclables, maintenance for our trucks,
11 and all the other rent -- and all the
12 other expenses to run a business.

13 The money left over -- after all
14 these expenses is typically 10 to 20
15 percent of the revenue -- is used to pay
16 the interest on the money we borrowed to
17 buy our trucks and containers. The more
18 trucks we have to buy, the more interest
19 we have to pay.

20 It's fundamental that all of these
21 expenses and interest payments require
22 corresponding revenue. Without
23 sufficient revenue there are no wages to
24 pay or anything else. The only way to
25 generate revenue is from the price

1 customers pay for our service.

2 The consequences for these laudable,
3 regulatory changes is that prices
4 charged for the collection of solid
5 waste and recycling must change to
6 reflect the new requirements.

7 Imagine a City where every industry
8 was subject to a rate cap, including
9 restaurants, hairdressers, lawyers.
10 Would those businesses still exist?
11 Yes, but they would certainly not be
12 flourishing, nor would there be the
13 variety of services that currently exist
14 today.

15 I urge the Commission to phase out
16 the rate cap so the waste industry is
17 treated like virtually every other
18 service industry in the City.

19 Moreover, I would urge the --
20 because of the regulatory changes that
21 the industry is facing, that the
22 proposed 5.6 increase be greatly
23 expanded to -- as Ron Bergamini stated
24 -- at least 20 percent.

25 Thank you.

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17

1 MR. SCOTTI: Thank for your
2 testimony.

3 Ron referred earlier to the
4 testimony of Steve Changaris of the
5 National Waste and Recycling
6 Association. We'd just like to
7 acknowledge that Steve's testimony was
8 received by the Commission earlier
9 today.

10 MR. BERGAMINI: Thank you.

11 MR. SCOTTI: Is there anyone else
12 who would like to testify?

13 (No response.)

14 MR. SCOTTI: Seeing no one else, we
15 will now close the record for this
16 hearing.

17 As a reminder, we will continue to
18 accept written comments through the
19 close of business today.

20 This hearing is now closed. The
21 time is 2:19. Thank you.

22 (Time noted: 2:19 p.m.)
23
24
25

CERTIFICATION

I, JULIA M. SPEROS, a Notary Public
for and within the State of New York, do
hereby certify:

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 9th day of April, 2018.



Julia M. Speros

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