

## **Testimony Regarding Proposed DSNY Rule Changes for Waste Generation Audits for Commercial Refuse Collections**

Waste Connections of New York, Inc. (“Waste Connections”), respectfully submits the following testimony regarding a regulatory change to Section 20-27, requiring that private carters conduct waste surveys when a “flat” billing method is used.

The listed reason for the change is because the Business Integrity Commission’s (“BIC”) rules currently provide that private carters conduct waste surveys to generate an accurate estimate of the average amount of waste while the existing Department of Sanitation (“DSNY”) rules do not. DSNY’s proposed solution, however, goes far and above what the BIC’s rules provides, are arbitrary and capricious, and will unnecessarily raise costs that can only be recovered through both an increase to the new commercial zone rate cap and the customer’s monthly bill. Moreover, the initial Request for Proposal (“RFP”) process, which is designed to ensure that all potential costs and requirements are clearly outlined so that proposers can submit accurate and competitive proposals, is upended by this new rule. By introducing significant changes well after the fact, undermines this process and creates an environment of uncertainty. It is crucial that any substantial changes such as proposed to the service requirements be thoroughly evaluated and included in the initial RFP to allow for fair and informed bidding. The proposed change was not contemplated when rate cap proposals were submitted. If these changes are instituted, Awardees will have not choice but to seek to recover these increased costs.

### **CURRENT BIC SURVEY RULES ARE SUPERIOR TO WHAT IS PROPOSED**

Under current BIC rules, flat rate customers have the right to a free survey. Unlike the proposed rules, which prescribe a set number of days for every type of customer, the time period is determined by mutual agreement between the customer and the licensee. Not every customer

wants or needs a survey. For example, a barber shop produces significantly different waste than a grocery store. The proposed rule, however, mandates a set number of survey days. BIC's flexibility is essential in keeping costs down while providing customer protection by establishing the right to a survey.

### **THE PROPOSED RULE IS NOT FEASIBLE**

It is not feasible to accurately survey every customer up to twice per year as proposed by the rule. The Department incorrectly assumes that the survey process will be managed by the driver and helper at each location. The primary responsibility of the driver is to safely navigate the route and collect the customer's waste and recycling in a timely manner. Adding the responsibility of surveying every stop along their route would extend their workday and reduce the number of customers they could service, potentially requiring additional trucks on the road.

Conducting surveys will require a separate audit team due to the large number of customers that need to be surveyed. It is simply not possible to conduct such a high volume of surveys within the specified timeframe for the number of customers in a commercial waste zone. For example, in the initial Queens Central Zone, Waste Connections signed thousands of customer agreements. The proposed rules would require each customer to be surveyed up to eight times in a 30-day period, resulting in thousands of surveys. This would divert resources from customer education and outreach efforts and significantly increase costs, which would ultimately be passed onto the customer.

### **THE PROPOSED RULE WILL LEAD TO INCREASED COSTS**

The implementation of mandatory customer surveys will lead to increased operational costs for private carters. These costs include, but are not limited to, the distribution of surveys, data collection and analysis, and significant additional administrative overhead.

More specifically, the length of the proposed surveys will require establishing dedicated full time audit teams. These teams will consist of two auditors in the field to gather data, a supervisor and an administrator to compile the data. Each field team, with salary and benefits, will cost close to \$280,000 per year. The Supervisor and Administrator will also cost about \$300,000 per year. Each team will only be able to complete about 10 audits per night or approximately 2,540 total audits per year. Assuming two audits per customer, each team will be able to audit only 320 customers. If twice per year audits are needed, then only 160 customers can be covered by an audit team.

Given these assumptions, the cost per audit for the field team is \$1,750 per customer. The Supervisor and Administrator add \$625 per account. Each field team will require a truck with a scale adding additional costs of approximately \$200 per customer bringing the total estimated costs to \$2,575 per customer (\$215 per month per customer).

Clearly, with the number of customers estimated in a zone, multiple teams will be needed. All these costs will need to be passed to the customers.

## **CONCUSION**

In conclusion, while the goal of improving service quality through customer feedback is commendable, the proposed rule change mandating customer surveys imposes significant, unforeseen costs on private carters. These costs were not contemplated during the RFP process. Moreover, these proposed changes are arbitrary and capricious and are unreasonable regulations that violation the CWZ Awardees rights We urge the Department to reconsider this rule change or, at the very least adopt the current BIC survey rules which give the customers the ability to request an audit but not make it mandatory.