

commercial waste collection firms have significant cost advantages over other firms, and can profitably increase their charges to local commercial customers without losing significant sales to firms outside the area.

Applying this analysis, the Complaint alleges that the areas of Pitkin County, Colorado; Garfield County, Colorado; Augusta, Georgia; Myrtle Beach, South Carolina; Morris County, New Jersey; and Bergen and Passaic Counties, New Jersey constitute sections of the country, or relevant geographic markets, for the purpose of assessing the competitive effects of a combination of Allied and Waste Management in the provision of small container commercial waste collection services.

There are significant entry barriers into small container commercial waste collection. A new entrant into small container commercial waste collection services must achieve a minimum efficient scale and operating efficiencies comparable to those of existing firms in order to provide a significant competitive constraint on the prices charged by market incumbents. In order to obtain comparable operating efficiencies, a new firm must achieve route density similar to existing firms.

An efficient route usually handles 80 or more customers or containers each day. Because most customers have their waste collected once or twice a week, a new entrant must have several hundred customers in close proximity to construct an efficient route. However, the common use of price discrimination and long-term contracts by existing commercial waste collection firms can leave too few customers available to the entrant in a sufficiently confined geographic area to create an efficient route. The incumbent firm can selectively and temporarily charge an unbeatably low price to specified customers targeted by new entrants. Long-term contracts often run for three to five years and may automatically renew or contain large liquidated damage provisions for contract termination. Such terms make it more costly or difficult for a customer to switch to a new hauler and obtain lower prices for its collection service. Because of these factors a new entrant may find it difficult to compete by offering its services at pre-entry price levels comparable to the incumbent and may find an increase in the cost and time required to form an efficient route, thereby limiting a new entrant's ability to build an efficient route and reducing the likelihood that the entrant will ultimately be successful.

The need for route density, the use of long-term contracts with restrictive

terms, and the ability of existing firms to price discriminate raise significant barriers to entry by new firms, which will likely be forced to compete at lower than pre-entry price levels. Such barriers in the market for small container commercial waste collection have allowed incumbent firms to raise prices successfully.

b. Anticompetitive Effects in Small Container Commercial Waste Collection Service Markets.

(1) *Pitkin County, Colorado.* In Pitkin County, Colorado, Waste Management's acquisition of Allied's hauling assets would reduce from two to one the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Waste Management would control over 89 percent of total market revenues, which exceed \$1.8 million annually. There are no other significant small container commercial waste competitors in this market.

(2) *Garfield County, Colorado.* In Garfield County, Colorado, Waste Management's acquisition of Allied's hauling assets would reduce from two to one the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Waste Management would control over 93 percent of total market revenues, which approximate \$3.2 million annually. There are no other significant small container commercial waste competitors in this market.

(3) *Augusta, Georgia Area.* Waste Management is acquiring the hauling assets of Allied in Augusta, Georgia. These assets serve small container commercial waste collection customers in Columbia, Richmond, McDuffie, Lincoln, and Warren Counties, Georgia. In the Augusta, Georgia area, the proposed acquisition would reduce from three to two the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Waste Management would control over 63 percent of total market revenues, which approximate \$7.5 million annually.

(4) *Myrtle Beach, South Carolina Area.* Waste Management is acquiring the hauling assets of Allied in Myrtle Beach, South Carolina. These assets serve small container commercial waste collection customers in Georgetown and Horry Counties, South Carolina. In this area, the proposed acquisition would reduce from three to two the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Waste Management would control over

58 percent of total market revenues, which exceed \$7.4 million annually.

(5) *Morris County, New Jersey.* In Morris County, New Jersey, Waste Management's acquisition of Allied's hauling assets would reduce from four to three the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Waste Management would control over 41 percent of total market revenues, which exceed \$14 million annually.

(6) *Bergen and Passaic Counties, New Jersey.* Waste Management is acquiring the hauling assets of Allied that serve Bergen and Passaic Counties, New Jersey. In Bergen and Passaic Counties, New Jersey, the proposed acquisition would reduce from four to three the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Waste Management would control over 47 percent of total market revenues, which exceed \$38 million annually.

The Complaint alleges that a combination of Allied and Waste Management in these areas would remove a significant competitor in small container commercial waste collection services. In each of these markets, the resulting increase in concentration, loss of competition, and absence of any reasonable prospect of significant new entry or expansion by market incumbents likely will result in higher prices for the collection of small container commercial waste.

2. The Effects of the Transaction on Competition in the Disposal of Municipal Solid Waste

a. Municipal Solid Waste.

A number of federal, state, and local safety, environmental, zoning, and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. MSW can be disposed of lawfully in a transfer station, landfill, or incinerator permitted to accept MSW. Anyone who attempts to dispose of MSW in an unlawful manner risks severe civil and criminal penalties. In some areas, landfills are scarce because of significant population density and the limited availability of suitable land. Accordingly, most MSW generated in these areas is burned in an incinerator or brought to transfer stations where it is compacted and transported to a more distant permanent disposal site.

Because of the strict laws and regulations that govern the disposal of MSW, there are no good substitutes for MSW disposal. Firms that compete in the disposal of MSW can profitably