

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 GERALD PETTY, d/b/a )  
 d/b/a TRI-R-DISPOSAL; and )  
 LEO CAREY and GRACE CAREY, )  
 individually and d/b/a )  
 CAREY'S DISPOSAL SERVICE, )  
 )  
 Defendants. )

CIVIL NO. 94-3142

5/31/94

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. §16 (b)-(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of all defendants in this civil antitrust proceeding.

I.

NATURE AND PURPOSE OF THE PROCEEDINGS

On \_\_\_\_\_, 1994, the United States filed a civil antitrust complaint under Section 1 of the Sherman Act, 15 U.S.C. §1, seeking to enjoin the defendants from engaging in an alleged combination and conspiracy to suppress competition in the supply of residential and commercial waste services in and around Christian County, Illinois, through the joint advertisement of rates because the combination and conspiracy is an unreasonable restraint of interstate commerce in violation of Section 1 of the Sherman Act (15 U.S.C. §1).

The Complaint alleges that the defendants:

- (1) Disseminated information among themselves relating to possible rate increases; and
- (2) Jointly advertised rates for their waste services.

The complaint requests that the defendants be enjoined from directly or indirectly disclosing any rate to any defendant or person prior to it having been announced to the general public and from publishing, announcing or disseminating any rate for waste services jointly or in connection with any defendant or person engaged in providing waste services. The complaint further requests that the defendants be required to institute an antitrust compliance program and file an annual certification of compliance with the terms of the Final Judgment as entered.

The United States and the defendants have stipulated and agreed that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act, unless the United States withdraws its consent. Entry of the proposed Final Judgment will terminate this action as to each of the defendants, except the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations of the Final Judgment.

## II.

### EVENTS GIVING RISE TO THE ALLEGED VIOLATION

At all times relevant to the allegations contained in the complaint, each of the defendants operated a waste services business in Christian County, Illinois. The defendants held

dominant positions in the market for such services. The United State's complaint in this case alleges that the defendants engaged in a conspiracy that unreasonably restrained competition in the sale of waste services through the use of joint advertising to facilitate a coordinated increase in the rates charged for waste services in the Chritian County area. The complaint alleges that the defendants disseminated among themselves information about rate increases and jointly advertised rates for their waste services.

### III.

#### EXPLANATION OF THE PROPOSED FINAL JUDGMENT

##### A. Prohibited Conduct

Section V(A) prohibits the defendants from directly or indirectly disclosing to any other defendant or any other person engaged in the waste services business any rate prior to its having been disclosed to the general public. Section V(B) of the Final Judgment prohibits the defendants from advertising, publishing, announcing or disseminating any rate for waste services jointly or in concert or in connection with any other defendant or any other person engaged in providing waste services.

##### B. Compliance Program and Certification

In addition to the prohibitions contained in Section V of the proposed Final Judgment, the defendants are required to implement an antitrust compliance program as set forth in Section VI.

As part of the compliance program, each defendant is required to distribute copies of the Final Judgment to all owners, officers and employees responsible in any way for prices and to any person who succeeds to the position as an owner, officer or employee responsible for prices. Additionally, such individuals must execute a certification of compliance as set forth more fully in Section VI(A)(4). Each defendant must also submit an annual statement to the United States as to its compliance with the Final Judgment as required under Section VII(B).

C. Applicability to Successors and Assigns

Section IV of the Proposed Final Judgment makes the Final Judgment applicable to the successors and assigns of each defendant. Each defendant must require, as a condition of the sale of its business or assets used in its waste services business, that the buyer agree to be bound by the provisions of the Final Judgment.

IV.

PROCEDURES AVAILABLE FOR MODIFICATION  
OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties Act, provided the United States has not withdrawn its consent. The Act conditions the entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The Act provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wants to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to:

Marvin Price, Acting Chief  
Midwest Office  
Antitrust Division  
United States Department of Justice  
209 South LaSalle Street  
Suite 600  
Chicago, Illinois 60604

Under Section IX of the proposed Judgment the Court will retain jurisdiction over this matter for the purpose of enabling any of the parties to apply to the Court for such further orders or directions as may be necessary or appropriate for the construction, implementation, modification, or enforcement of the Final Judgment, or for the punishment of any violations of the Final Judgment.

V.

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment provides all the relief as to the defendants necessary to cure the violations alleged in the complaint. The Judgment will enjoin the defendants from

resuming operation of the alleged conspiracy. Because the Judgment provides all of the relief against the defendants that the United States would have sought through a trial, the United States did not seriously consider any alternatives to the Judgment.

VI.

DETERMINATIVE DOCUMENTS

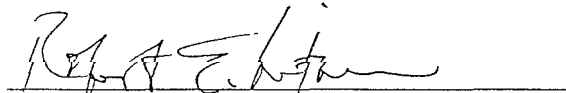
No documents were determinative in formulating the proposed Judgment, and the United States therefore has not attached any such documents to the Judgment.

Respectfully submitted,

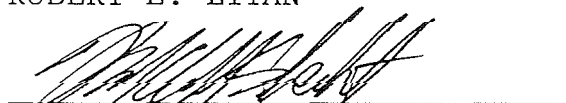
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