A.G. Schneiderman Announces Settlement Protecting Competition For Waste Hauling Services In Upstate New York

Settlement Requires Casella Waste Systems To End Anticompetitive Contract Practices And Refrain From Similar Conduct In The Future

Schneiderman: Consumers And Small Businesses Upstate Deserve The Benefits Of Vigorous Competition Among The Companies That Serve Them

NEW YORK – Attorney General Eric T. Schneiderman today announced a settlement with a waste hauling firm, Casella Waste Systems, Inc., resolving concerns that Casella’s restrictive contracting practices, combined with its market dominance and pattern of acquisitions of smaller competitors, unlawfully restrained competition in the North Country and Southern Tier. The settlement requires Casella to change its contracts to reduce the legal and financial obstacles faced by customers that wish to switch to competing providers. These changes are expected to rejuvenate competition by reducing customers’ switching costs and facilitating new market entry. The settlement also requires Casella to report certain future acquisitions of competitors to the Attorney General’s office, and to make a monetary payment to the State.

"There must be one set of rules for everyone, especially companies that provide essential services. By fighting for a level playing field in our state’s waste hauling industry, we can ensure New Yorkers receive the benefits of vigorous competition,” said Attorney General Schneiderman. “We will continue to act aggressively to ensure that companies in all areas of the state achieve success by offering customers the best products and services – not through business strategies that artificially entrench their positions.”

The Casella contracts in question involved the collection and disposal of solid waste from Dumpsters. The Attorney General’s Office found that Casella’s contracts with its customers required that Casella serve as the exclusive provider of all customers’ waste hauling services for as long as five years. Customers faced severe consequences for early cancellation of their contracts, due to provisions requiring that they pay Casella an amount equal to six times their monthly bill upon early termination. The contracts also granted Casella the right to match competing offers, further discouraging competitors from bidding on the business.

In the waste hauling business, fixed costs are sufficiently high that a would-be competitor must achieve a minimum efficient scale and route density in order to offer competitive service and pricing to customers. When most potential customers are locked up in long-term contracts, it is very difficult for a new firm (or a smaller existing firm) to find sufficient business in the short-to-medium term to achieve levels of scale and route density that will allow it to compete effectively with a dominant incumbent. As a result, long term, restrictive contracts can raise the costs and risks associated with new entry or expansion in a market, and tend to entrench the market position of the dominant firm. In this case, Casella’s market position was also strengthened by its pattern of acquiring smaller competitors in its key markets.

Under the settlement, Casella has agreed not to enroll customers in contracts with an initial term of more than two years. Casella also agreed to reduce its penalty for early termination to three months’ service for the first year of a contract, and to only one month’s service after the first year. In addition, Casella agreed to notify the Attorney General if it acquires a competitor of a minimum size in certain key upstate counties. The
settlement applies to the counties where Casella has the strongest market presence: St. Lawrence, Franklin, Clinton, Chautauqua, Cattaraugus, Allegany, Steuben, Schuyler, Chemung and Tompkins. Casella also agreed to make a monetary payment to New York State in the amount of $100,000.

Casella entered into similar settlements with the Vermont Attorney General's office in 2002 and 2011.

This matter was handled by Antitrust Bureau Chief Eric J. Stock; Assistant Attorneys General Zachary W. Biesanz, Amy McFarlane, and Joseph Antel; and Executive Deputy Attorney General Karla G. Sanchez.

A copy of today's agreement can be viewed here.