
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 16, 2004

Waste Services, Inc.

(Exact name of registrant as specified in its charter)

| | | |
|---|--------------------------------------|--|
| Delaware | 000-25955 | 01-0780204 |
| _____ (State or other jurisdiction of incorporation) | _____ (Commission File Number) | _____ (I.R.S. Employer Identification No.) |
| 1122 International Blvd., Suite 601 Burlington, Ontario | | L7L 6Z8 |
| _____ (Address of principal executive officers) | | _____ (Zip Code) |

Registrants' telephone number, including area code: (905) 319-1237

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- Item 7. Financial Statements and Exhibits
- (c) Exhibit 99.1 Press Release issued August 16, 2004.
- Item 12. Disclosure of Results of Operations and Financial Condition

Waste Services, Inc. (“Waste Services”, “we”, “us” or “our”) issued a press release on August 16, 2004 announcing our results of operations for the quarter ended June 30, 2004. A copy of that release is furnished as Exhibit 99.1

In our press release, we presented information on our operating income before depreciation, depletion and amortization for the quarter and on an annualized pro forma basis. Operating income before depreciation, depletion and amortization (on an actual and pro forma basis) is a “non-GAAP” financial measure under Regulation G. The components of operating income before depreciation, depletion and amortization are computed by using amounts that are determined in accordance with GAAP. As part of our press release we provided a reconciliation of operating income before depreciation, depletion and amortization for the second quarter 2004 to income from operations for the same period, which is its nearest comparable GAAP financial measure. The reconciliation consists of adding depreciation, depletion and amortization to income from operations.

Operating income before depreciation, depletion and amortization (on an actual and pro forma basis) is presented because we believe that it may be used by certain investors to analyze and compare our operating performance between accounting periods and against the operating results of other companies that have different financing and capital structures or tax rates. In addition, management uses operating income before depreciation, depletion and amortization, among other things, as an internal performance measure. Our lenders also use operating income before depreciation, depletion and amortization and adjusted operating income before depreciation, depletion and amortization to measure our ability to service and/or incur additional indebtedness under our credit facility. However, operating income before depreciation, depletion and amortization should not be considered in isolation or as a substitute for net income, cash flows or other financial statement data prepared in accordance with U.S. GAAP or as a measure of a company’s performance, profitability or liquidity. Operating income before depreciation, depletion and amortization is not calculated under U.S. GAAP and therefore is not necessarily comparable to similarly titled measures of other companies.

SIGNATURE

Pursuant to the requirements of the securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

WASTE SERVICES, INC.

By: /s/Ivan R. Cairns

Ivan R. Cairns
Executive Vice President, General Counsel
& Secretary

Date: August 16, 2004



PRESS RELEASE

For Immediate Release

WASTE SERVICES REPORTS SECOND QUARTER RESULTS

BURLINGTON, Ontario, August 16, 2004 /PRNewswire-FirstCall/ – Waste Services, Inc. (Nasdaq: WSII) today reported financial results for the three months ended June 30, 2004. Revenue for the quarter increased by \$41.3 million, or 132%, to \$72.6 million in 2004 compared to \$31.3 million in 2003. The increase is primarily attributable to new business acquisitions in the United States, since the company initiated a disposal-based growth strategy to enter the U.S. solid waste market in 2003. In the second quarter Waste Services completed its acquisitions of Florida Recycling Services and the Jacksonville, Florida operations of Allied Waste. Operating income before depreciation, depletion and amortization* was \$8.7 million for the second quarter of 2004, compared to \$3.5 million for the same period last year. Net loss attributable to Common Shareholders for the three months ended June 30, 2004, was \$18.6 million, or \$(0.21) per share, versus a loss of \$16.0 million, or \$(0.42) per share, for the comparable period last year.

For the six months ended June 30, 2004, revenue increased to \$122.9 million from \$56.6 million for the comparable period in 2003, an increase of \$66.3 million, or 117%. Operating income before depreciation, depletion and amortization* was \$14.4 million for the first six months of 2004, compared to \$7.8 million for the same period last year. Net loss attributable to Common Shareholders was \$29.3 million for the six months ended June 30, 2004, or \$(0.37) per share, compared to a net loss attributable to Common Shareholders of \$24.3 million, or \$(0.67) per share for the comparable period last year.

As announced on August 2, the Company completed its corporate migration on July 31, pursuant to which Waste Services, Inc., a Delaware corporation, became the ultimate parent company and Capital Environmental Resource, Inc., an Ontario corporation and the former parent company, became a subsidiary. As part of this transaction, the company has changed its name to Waste Services, Inc. and changed its ticker symbol to “WSII”.

In the second quarter, the company received permission to expand the service area of the JED Landfill, located in Osceola County Florida, to include 13 additional counties adjacent to the original service area. This service area expansion significantly broadens the waste shed from which the landfill can draw volume.

While most of the company’s businesses have performed at or near management’s second quarter expectations, the expected profit contribution from the JED Landfill in Florida and the performance of the operations acquired as part of the Florida Recycling Services acquisition have performed below expectations. Development delays related to the planned transfer station

network and lower than expected volumes from third parties were the primary factors during the second quarter that resulted in lower than anticipated performance at the JED Landfill. As a result, the company failed to meet certain financial covenants contained in its senior credit agreement. The company is in discussions with its senior lenders concerning a temporary waiver regarding non-compliance with these covenants and expects to receive a waiver in the near-term.

Based on second quarter results and management's outlook for the balance of the year, the company has revised its internal expectations for the second half of 2004:

The company's Canadian operations and its operations in Florida acquired from Allied Waste are expected to perform within the range of previous expectations;

In the Phoenix market area, the company opened its Southeast Regional Landfill (formerly known as the Cactus Waste Landfill) and two transfer stations in July and expects the performance of its collection, transfer and disposal operations in Arizona to be in the range of previous expectations;

The company expects that its Fort Bend Regional Landfill, located outside of Houston, Texas, will be open by the end of August 2004. Management is currently addressing permitting issues which may delay the expected opening of the previously announced transfer station in the southwest Houston area that could deliver up to 850 tons per day of solid waste to the landfill. The transfer station was previously expected to open in the fourth quarter of 2004;

Management had previously expected that the JED Landfill would be receiving 3,000 to 4,000 tons per day by the end of 2004. This increase in volume was driven, in part, by the expectation of the opening of three transfer stations associated with the acquisition of Florida Recycling Services, which were all expected to be operating by the fourth quarter of 2004, enabling the company to internalize significant volume collected by its own operations into the JED Landfill. Due to development delays at each of the three transfer stations, the company now expects two of the transfer stations to open in the second quarter of 2005 and one transfer station to open in the third quarter of 2005. As a result, management now expects contribution from the JED Landfill in the third, fourth and first quarters will be below previous expectations;

The Company acquired Florida Recycling Services on April 30, 2004. The performance of the operations of Florida Recycling has been below our expectations and we are in the process of conducting a thorough review of all aspects of Florida Recycling's business in an effort to identify the factors contributing to this current level of performance;

Management has detailed action plans for each of its geographic markets targeting performance improvement driven by components such as landfill volume increases, operating expense reduction, improving working capital turnover, and rationalizing general and administrative expenses. In addition, the Company is currently undertaking a comprehensive review of its corporate, general and administrative expenses and expects to take steps to reduce these expenses in future periods. These action plans are expected to result in improvements to both profit margins and cash flow in each of the Company's geographic markets over the next several quarters;

The Chairman and Chief Executive Officer of the company, David Sutherland-Yoest, stated "While we are disappointed with the delay in getting the volumes into the JED Landfill and the performance of FRS, we remain confident in our market position and asset base in Florida. The balance of the company's businesses are performing as anticipated and we are working on increasing the contribution of the Florida business by taking aggressive steps to reduce costs and

improve performance in all of our markets in the near-term. We are pleased to report there has not been any reported damage or disruption to the Company's operations in Florida as a result of Hurricane Charley over this past weekend. The Company is in the process of working together with its customers, government authorities and regulatory officials to proactively respond to their immediate increased needs for service."

* Reconciliation of Non-GAAP Measures for the Three and Six Months Ended June 30, 2004 and 2003

The following table reconciles the differences between income (loss) from operations, as determined under U.S. GAAP, and operating income before depreciation, depletion and amortization, a non-GAAP financial measure (in thousands of U.S. dollars) (unaudited):

| | For the Three Months Ended | | For the Six Months Ended | |
|---|----------------------------|----------------|--------------------------|----------------|
| | June 30, | | June 30, | |
| | <u>2004</u> | <u>2003</u> | <u>2004</u> | <u>2003</u> |
| Operating income before depreciation, depletion and amortization (1)..... | \$8,680 | \$3,548 | \$14,357 | \$7,837 |
| Depreciation, depletion and amortization..... | <u>7,809</u> | <u>3,566</u> | <u>13,281</u> | <u>6,791</u> |
| Income (loss) from operations | <u>\$ 871</u> | <u>\$ (18)</u> | <u>\$ 1,076</u> | <u>\$1,046</u> |

- (1) Operating income before depreciation, depletion and amortization is presented because the Company believes that it may be used by certain investors to analyze and compare the Company's operating performance between accounting periods and against the operating results of other companies that have different financing and capital structures or tax rates. In addition, management uses operating income before depreciation, depletion and amortization, among other things, as an internal performance measure. The Company's lenders also use operating income before depreciation, depletion and amortization to measure the Company's ability to service and/or incur additional indebtedness under its credit facility. However, operating income before depreciation, depletion and amortization should not be considered in isolation or as a substitute for net income, cash flows or other financial statement data prepared in accordance with U.S. GAAP or as a measure of a company's performance, profitability or liquidity. Operating income before depreciation, depletion and amortization is not calculated under U.S. GAAP and therefore is not necessarily comparable to similarly titled measures of other companies.

The company will host an investor and analyst conference call on Tuesday, August 17, 2004 at 8:30 a.m. (EDT) to discuss the results of today's earnings announcement. If you wish to participate in this call, please contact the conference call operator at (866) 546-6145. For those unable to listen to the live call, a telephonic replay of the call will be available until August 31, 2004 by phoning (800) 408-3053 or (416) 695-5800 and entering the reservation number 3090002.

Safe Harbor for Forward-Looking Statements

Certain matters discussed in this press release are "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements describe the company's future plans, objectives and goals. These forward- looking statements involve risks and uncertainties which could cause actual results to differ materially from the plans, objectives and goals set forth in this press release. Factors which could materially affect such forward- looking statements can be found in the Company's periodic reports filed with the Securities and Exchange Commission, including risk factors detailed in the Company's Form 10-K for the year ended December 31, 2003. Shareholders, potential investors and other readers are urged to consider these factors carefully in evaluating the forward-looking statements and are cautioned not to place undue reliance on such forward-looking statements.

The forward-looking statements made in this press release are only made as of the date hereof and Waste Services undertakes no obligation to publicly update such forward-looking statements to reflect subsequent events or circumstances.

Waste Services, Inc. is a multi-regional integrated solid waste services company that provides collection, transfer, disposal and recycling services in the United States and Canada. The company's web site is www.wasteservicesinc.com. Information on the Company's web site does not form part of this press release.

For information contact:

Mark A. Pytosh, Executive Vice President
905-319-6054

WASTE SERVICES, INC.
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands of US dollars; except per share amounts)

| | Three Months | | Six Months Ended | |
|---|-----------------------|-------------------|-------------------------|-------------------|
| | Ended June 30, | | June 30, | |
| | 2004 | 2003 | 2004 | 2003 |
| Revenue | \$72,626 | \$31,282 | \$122,943 | \$56,562 |
| Operating and other expenses: | | | | |
| Cost of operations | 49,913 | 20,430 | 84,084 | 37,024 |
| Selling, general and administrative expense exclusive of stock-based compensation | 13,959 | 6,792 | 25,909 | 11,521 |
| Stock-based compensation expense (benefit) | 357 | 120 | (1,034) | (177) |
| Depreciation, depletion and amortization | 7,809 | 3,566 | 13,281 | 6,791 |
| Foreign exchange gain and other | (283) | 392 | (373) | 357 |
| Income (loss) from operations | 871 | (18) | 1,076 | 1,046 |
| Interest expense | 12,266 | 1,667 | 18,582 | 2,987 |
| Changes in fair value of warrants pending registration | 421 | - | 421 | - |
| Cumulative mandatorily redeemable preferred stock dividends and amortization of issue costs | 4,290 | 2,198 | 8,309 | 2,198 |
| Loss before income taxes | (16,106) | (3,883) | (26,236) | (4,139) |
| Income tax provision (benefit) | 2,509 | (377) | 3,338 | (334) |
| Loss before cumulative effect of change in accounting principle | (18,615) | (3,506) | (29,574) | (3,805) |
| Cumulative effect of change in accounting principle, net of provision for income taxes of \$134 and \$256 for the six months ended June 30, 2004 and 2003, respectively | - | - | 225 | 518 |
| Net loss | (18,615) | (3,506) | (29,349) | (3,287) |
| Deemed dividend on Series 1 Preferred Shares | - | (12,489) | - | (21,021) |
| Net loss attributable to Common Shareholders | <u>\$(18,615)</u> | <u>\$(15,995)</u> | <u>\$(29,349)</u> | <u>\$(24,308)</u> |
| Basic and diluted loss per share: | | | | |
| Basic and diluted loss per share attributable to Common Shareholders before cumulative effect of change in accounting principle | \$ (0.21) | \$ (0.42) | \$ (0.37) | \$ (0.68) |
| Cumulative effect of change in accounting principle | - | - | - | 0.01 |
| Loss per share - basic and diluted | <u>\$ (0.21)</u> | <u>\$ (0.42)</u> | <u>\$ (0.37)</u> | <u>\$ (0.67)</u> |
| Weighted average Common Shares outstanding - basic and diluted | <u>88,855</u> | <u>37,865</u> | <u>79,736</u> | <u>36,537</u> |