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RE: Application for determination of public benefit, DEP# S -022432-W5-A-N

Ms. Knuuti:

PERC Holdings is one of three partners in the PERC Waste to Energy project in Orrington Maine. At PERC, we provide resource recovery services for approximately 187 communities, process over 300,000 tons of msw on an annual basis and produce 25 MW of energy to the grid.

There have been entries in this proceeding that have raised questions as to whether the PERC waste to energy facility can or will operate after 2018. This discussion has led to the generation of questions about the definition of "capacity" as it relates to the integrated solid waste management system in Maine. The clarification of this issue of capacity is not only very important to this application but also to the future of the PERC project and for the realistic determination of available future msw processing/disposal capacity in the State of Maine.

The first clarification of the issue of capacity is that it does not and cannot have the same meaning or applicability to a landfill as it does to a waste to energy facility such as PERC. The creation of capacity, the consumption of capacity and the replacement of capacity related to these two important forms of msw processing/disposal cannot accurately be compared or measured in the same terms. Consequently, there is not any accurate comparison on this issue and nor should one be utilized in this process.

There are several key differences between how capacity is determined at landfills and WTE facilities and more importantly, how the issue of capacity impacts the respective facilities operationally and financially.

The capacity of a licensed landfill is measured in air space yards. This air space capacity is initially calculated during site design and prior to the construction period. During operation, the landfill capacity continues to be physically measurable by tracking the consumption of air space yards based upon the volume and compactability of the incoming materials accepted by the site during the period of a year. This measurement is used to determine the Annual Fill Rate (the amount of air space capacity that will be consumed annually) at a given landfill.

Since landfill air space yards are finite and cannot be regenerated or replaced, the annual fill rate is very useful to project the operating life or capacity of a landfill.

In contrast, WTE facilities have no such measurable finite capacity. The WTE can accept msw up to its daily permitted limits, in PERC's case, approximately 1000 tons per day. Once the mws is sorted and combusted, the facility's capacity is once again available to accept and process 1000 tons per day. There is no finite limit to its processing capacity if the facility is well maintained and updated to address changes in the energy and recyclables markets.

Operationally landfills are saleable, as they have no physical need to operate above a minimum level volume. Landfill air space retains value until consumed. This key element allows landfills to operate on a market supply basis that may or may not include long term contracts to ensure a minimum level of annual waste supply.

A WTE facility is very much driven by volume of waste supply to remain viable. Both the tipping fees and the creation and sale of mega watts through a power purchase agreement (PPA) to the grid from a WTE facility are "use it or lose it" commodities. If the WTE facility does not have enough msw to produce power to satisfy the PPA, the WTE won't receive a large portion of the revenues required for it to viably operate. Many current PPA's pricing structures require documentation of long term fuel supply contracts by the WTE. Operationally, running at under capacity levels at a WTE is very inefficient and at lower levels of combustion, it can be potentially damaging to the boilers.

The assertion that the PERC facility and the processing/disposal capacity attributed to it will go away in 2018 is not correct. At 2018, over 300,000 tons per year of resource recovery capacity will still be available through the PERC facility. The State owned Juniper Ridge Landfill will still have capacity to accept ash, non-processibles and other residual materials from PERC's operation. Juniper Ridge will actually need those materials to remain viable and reach final closure levels.

The electrical markets will still be available to purchase PERC generated mega watts, although at significantly reduced rates compared to PURPA. There will still be msw in PERC'S service area which will require processing as directed by the State Solid Waste Hierarchy. PERC will remain a solid waste management resource recovery facility with operating "capacity" post 2018 to process that msw.

PERC'S core partners, the MRC, USA Energy and PERC Holdings have been working for years to develop and agree on a contract extension. This process has been handicapped by financial impacts the looming expiration of PURPA contract. While the PURPA agreement benefited the PERC project over its years of operation, it has also produced an unintended consequence to the project partners. PERC's PURPA contract has artificially reduced the project operating cost that has been recognized by the partner communities.

All of the PERC partners fear the financial impact of unsupported energy sales pricing and while this issue has been a key point in partner discussions, there has been no agreement on how to best to handle

this financial challenge. This lack of agreement on this point has provided motive for the MRC to move forward with this application.

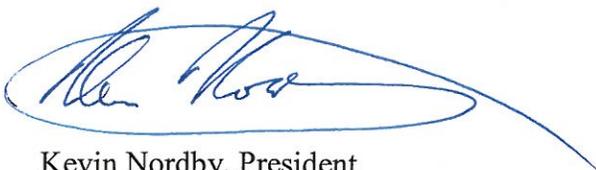
There are many good reasons which should compel the MRC to pursue a path to continue their participation in the PERC project in lieu of building a new facility and associated landfill.

The fact that PERC is already in place and already permitted for resource recovery activities negates much of the expense and risk entailed in the MRC proposed project. PERC has been and will continue to be upgraded to address the new emerging technologies and material markets opportunities and requirements. Juniper Ridge landfill will remain in place as a regional solid waste disposal facility regardless of the expansion of the resource recovery and recycling activities at PERC.

PERC has the ability to operate after 2018 and well into the future. A new revitalized structure and approach for the PERC project is needed from the current partners to allow the construction of the new long term and financially sustainable msw supply agreements needed for future operation. Plans for new materials sorting and recovery technologies must be reviewed and incorporated into the current location foot print. This new approach must also include a thoughtful and controlled use of the public asset of Juniper Ridge Landfill.

A refocused and continued cooperative effort between the partners is needed to assess the need for the modifications required to position the PERC project to continue to move forward. The contract renewal efforts must be revisited and exhausted before the MRC communities move ahead recreating the resource recovery capabilities of PERC. There is no "lack of capacity" issue pertaining to PERC that would justify the financial burden and the uncertainty of building a replacement resource recovery facility for PERC.

Regards,

A handwritten signature in blue ink, appearing to read "Kevin Nordby", with a large, sweeping flourish extending to the right.

Kevin Nordby, President
PERC Holdings