

**Resolution and Policy on Delivery to the PERC Facility of
Waste Originating Outside the Borders of a Charter Municipality**

Version 1.0 dated September 18, 2003

WHEREAS, it has come to the attention of the Municipal Review Committee, Inc. (the MRC), that certain of the Charter Municipalities are currently delivering (or are planning to deliver) waste to the PERC Facility that originates outside their municipal borders (including deliveries to a refuse disposal district or solid waste corporation from municipalities that are not part of that district or corporation), and which is obtained by arrangements either with private haulers or with municipalities that have not entered into Charter Municipality Waste Disposal Agreements from PERC (Outside Deliveries).

WHEREAS, the MRC is concerned that Outside Deliveries are a violation of the Waste Disposal Agreements with PERC, which states as follows:

...Only Acceptable Waste which originates from within MUNICIPALITY or, with the written consent of COMPANY, which MUNICIPALITY otherwise causes to be so delivered, shall be delivered to the Facility by or on behalf of MUNICIPALITY and credited toward its Guaranteed Annual Tonnage....”
Waste Disposal Agreements, Article V. H.

WHEREAS, the MRC is concerned that Outside Deliveries undermine the intended allocation of Performance Credits among the Charter Municipalities. The current method of allocation specified by the MRC allocates Performance Credits among Equity Charter Municipalities on the basis of an equal weighting of actual deliveries and the Guaranteed Annual Tonnage (GAT), and among New Charter Municipalities solely on the basis of actual deliveries. Consequently, the current allocation formula may provide an unfair advantage to those Charter Municipalities whose actual deliveries are elevated artificially by accounting for Outside Deliveries. This possible inequity is of concern to the MRC.

WHEREAS, the MRC does not intend to upset or interfere with long-standing arrangements for management and delivery of waste to the PERC Facility.

WHEREAS, although it is PERC, not the MRC, that has the burden and authority to enforce the provisions of the Waste Disposal Agreements that apply to Outside Deliveries, it is the MRC in its role as the official representative of the Charter Municipalities that is responsible for ensuring that Performance Credits and other benefits of the Waste Disposal Agreements are allocated among the Charter Municipalities on a fair and equitable basis, and for monitoring compliance with the Waste Disposal Agreements.

WHEREFORE, the MRC hereby institutes the following Policy:

1. For those Charter Municipalities that have delivered or are currently delivering waste to the PERC Facility that originates outside of their borders:
 - The MRC will exclude from the allocation of cash distributions to Charter Municipalities any waste that is delivered to the PERC Facility by a Charter Municipality under a new arrangement that is categorized by the MRC as consisting of Outside Deliveries, unless the Charter Municipality involved in such arrangement obtains the prior consent of the MRC Board of Directors. The MRC would grant such consents on a case-by-case basis based on the projected availability of cash for distribution, the scope of the proposed arrangement, potential impacts on fair and equitable distribution of the benefits of the Waste Disposal Agreements, and similar considerations that are consistent with the MRC's mandate and authority.
 - The MRC will not retroactively change distributions of Performance Credits, Net Cash Flow and proceeds of the Promissory Note, and will not take or pursue any action that would compensate for past inequities in cash distributions attributable to Outside Deliveries prior to September 18, 2003.
 - The MRC will allow existing arrangements for Outside Deliveries to be continued (grandfathered) at the present time and at present levels, but reserves the right in the future to adjust the manner for allocating cash distributions among the Charter Municipalities to correct any significant inequities or unfair or unsustainable situations that result from such Outside Deliveries.
2. The MRC shall inform the Charter Municipalities of this policy. As part of that correspondence effort, the MRC shall request information regarding whether the Charter Municipality knowingly currently delivers any waste originating outside its borders, and, if so, shall request the following regarding all such Outside Deliveries:
 - Names of all municipalities and private entities that are the source and origin of Outside Deliveries.
 - Methods of delivery to the Charter Municipality and/or to PERC.
 - The starting date, the term, end date and renewal terms of all agreements with other municipalities or with private entities governing such agreements.
 - Estimated quantities of waste per year delivered to PERC under such agreements.
 - Copies of all contracts, resolutions or other formal documents governing such Outside Deliveries.
3. The MRC shall request responses from all Charter Municipalities for information regarding Outside Deliveries by October 24, 2003, for action at the next regularly

scheduled meetings of the MRC Board of Directors, and just before the next regularly scheduled distribution of cash to the Charter Municipalities.

Drafted for approval by the MRC Board of Directors through an Action by Consent based on a preliminary motion approved at the meeting of the MRC Board of Directors on September 18, 2003.