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April 12, 2018

Alan J. Knauf, Esq.
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Re: Case 18-F-0150 - Application of Circular EnerG, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law to Construct and Operate an up to 80 MW Waste-To-Energy Major Electric Generating Facility in the Town of Romulus, Seneca County.

Dear Mr. Knauf:

This letter is to inform you that Staff of the New York State Department of Public Service (DPS Staff) has reviewed the proposed Public Involvement Program Plan (PIP Plan) for the proposed Circular EnerG Waste-To-Energy Facility (Facility) filed on March 13, 2018, by Circular EnerG, LLC (Applicant).

Outlined in Attachment A is a number of specific recommendations from DPS Staff as to changes necessary to make the proposed PIP Plan sufficiently adequate and robust. DPS Staff believes that the application process will be streamlined if the Applicant develops a thorough PIP Plan that includes outreach to potentially affected stakeholders early in the process to effectively obtain preliminary input that will guide developing the scope of studies for the application.

Pursuant to 16 NYCRR §1000.4(e), the Applicant, “shall within 30 days consider the measures recommended by DPS [Staff] and, in a revised written Public Involvement Program Plan filed with the Secretary, shall as to each specific measure either revise the Public Involvement Program Plan to incorporate the DPS [Staff] recommendation, or provide a written explanation as to why the Applicant is not incorporating the DPS [Staff] recommendation.”

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If you have any questions or need additional information regarding the attached DPS Staff recommendations, please contact me at (518) 474-1788 or by e-mail at lorna.gillings@dps.ny.gov.

Sincerely,



Lorna Gillings
Consumer Advocacy and Education
Office of Consumer Services

Cc (via e-mail): Kathleen H. Burgess, Secretary to the Commission
Graham Jesmer, Assistant Counsel, Office of General Counsel
Cassandra A. Partyka, Assistant Counsel, Office of General Counsel
Erin O'Dell-Keller, Office of Consumer Services

ATTACHMENT A

GENERAL COMMENTS

1. DPS Staff recommends that in the revised PIP Plan for the proposed Circular EnerG Waste-To-Energy Facility (the Facility or the Project), Circular EnerG, LLC (the Applicant), add the case number to the front cover page and in the header of all pages where the case number is indicated.
2. DPS Staff recommends that the Applicant include efforts to consult with DPS Staff at appropriate times during the outreach period, including during early development of the Preliminary Scoping Statement (PSS).
3. Under the “Executive Summary-List of commonly used terms and acronyms,” the word “Environment” was left off the end of the definition of the Siting Board.
4. On Page 2, Section I.E., the word “in” or the word “throughout” should be deleted from the second sentence.

I. EXECUTIVE SUMMARY

1. Pages 1-2 of the PIP Plan provide a Project summary and a description of the Facility Area and Study Area. However, these sections do not identify the interconnection location for the Facility nor do they describe the locations and types of facilities that will be required for the interconnections. A revised PIP Plan should be provided that includes this information, to the extent known. The type and location of interconnection facilities should be shown on maps of the proposed Project and should be included in information provided during public outreach and on the Project website, including whether or not an Application will be required under Public Service Law (PSL) Article VII for any planned transmission line.
2. Page 2 of the PIP Plan states that the Facility is proposed to be located on an environmentally contaminated site that is deed restricted and currently undergoing active groundwater monitoring. The PIP Plan should provide additional information on the nature and status of remediation at the Project site and generally describe how construction and operation of the Facility will avoid disruption of ongoing groundwater monitoring and remediation activities at the site. The PIP Plan should summarize any risk of exposure to environmental contamination during construction and operations at the site.
3. Section D. should include a brief description of the municipalities (county, town, and village) included in the Project and Study Area.
4. Page 2 of the PIP Plan states that MSW and C&D waste will be delivered to the main processing building using, in part, rail cars with sealed containers. The PIP Plan should identify the source location of all waste to be transported by rail, the trunk rail lines over

which the waste will travel, the local rail lines between the Facility and the trunk rail lines over which the waste will travel, the municipalities through which the affected local rail lines pass, the owner(s)/operator(s) of the local railways, describe all consultations to date, and include the railway owner/operator as a listed stakeholder for the Project in Appendix A (Master Stakeholder List). The PIP Plan should include an outreach plan to the municipalities through which the affected local rail lines pass.

5. The PIP Plan implies that additional MSW and C&D waste will be delivered to the main processing unit via truck(s). The Applicant should perform a traffic study in the PIP Phase to determine potential impacts to local communities, tourism and businesses, along Route 96 north to the New York State Thruway and south to Route 17/Interstate 86. This traffic study should include consultation with each municipality along all identified and potential routes to determine the impacts of additional truck traffic that would result if the Facility were to be constructed.

II. PUBLIC INVOLVEMENT PROGRAM OVERVIEW

1. According to Page 3 of the PIP Plan, the Company estimates that Project construction will create between 300 and 1,000 temporary employment opportunities and construction and operation of the Facility will sustain approximately 85 full-time jobs. The PIP Plan should be updated to provide an explanation of whether and how the Applicant's procurement processes will be utilized to support hiring of local businesses and personnel during the construction and operation phases.
2. DPS Staff notes that the draft PIP Plan mentions decommissioning activities in this section but a possible life expectancy of the Project is not provided. Applicant should include this information in the revised PIP Plan.

III. STAKEHOLDERS

1. The PIP Plan should be revised to include additional and extensive outreach and engagement with local and state government officials, including the Seneca County Department of Planning and Community Development and the Seneca County Health Department and all NYS Assembly and Senate members representing districts within the Project Area and areas impacted by rail or truck transportation activities. The Applicant should specifically seek information regarding local conditions in developing a public health effects analysis as required by Public Service Law §164.1(h).
2. Consultation with the Town of Romulus should include a discussion regarding whether the Facility is a permitted or allowed use based on existing or proposed zoning laws. Initial indications from the Town of Romulus filed in the Public Comments of this case indicate that the Facility is not a permitted use. The PIP Plan should include a discussion of what engagement efforts the Applicant is going to undertake to overcome this significant barrier to the viability of the Project.

3. The PIP Plan should be revised to identify all communities and interest groups located in the corridor between Seneca Lake and Cayuga Lake. The groups should include at minimum the wineries listed below, as well as the parties suggested to be added to the Master Stakeholder List. Additional and extensive outreach should be planned for these communities and interest groups that includes discussing the visual, and environmental impacts of the Facility such as impacts to Seneca Lake, air quality, noise and traffic.
4. The PIP Plan should include a plan to engage as stakeholders all municipalities and public officials that have announced opposition to the Project.

IV. PUBLIC INVOLVEMENT PROGRAM ELEMENTS

1. DPS Staff notes that no contact information is provided for a Circular EnerG employees or staff members, only the Applicant’s Counsel is listed. DPS Staff advises that the name and contact information of a company representative should be added.
2. DPS Staff recommends that the Applicant state the hours when Project representative(s) will be available to the public in the Revised PIP Plan.
3. DPS Staff recommends including a statement that additional outreach to host landowners and municipal officials will take place during decommissioning and restoration activities.
4. For entries where the Applicant indicates that it has conducted a mailing to the stakeholder list (e.g. prior to the open house meetings), the Applicant should provide an affidavit stating that it used its stakeholder list (including participating and adjacent landowners) and *file a copy of the list of addresses with the Secretary to the Commission*.
5. To be consistent with Section V.B., Section IV.D. should note that there are two open houses (one pre-PSS and one post-PSS) that require stakeholder notification.
6. DPS Staff notes that materials such as fact sheets will be available on the Project website and at an open house. DPS Staff advises that such materials should also be available at document repositories, i.e., the local libraries and town halls.
7. The word “intervenor” should added before the word “funding” to clarify the type of funding.
8. DPS Staff notes that item “T” on the top of page 12 is incorrectly formatted.

V. PRE-APPLICATION ACTIVITIES TO ENCOURAGE STAKEHOLDERS TO PARTICIPATE AT THE EARLIEST OPPORTUNITY

1. The open houses noted in this section should occur at different times of the day and on different dates to provide multiple opportunities for the public to be able to attend an open house session.
2. Section B. on page 11 of the PIP Plan states that the Company intends to conduct open-house style public meetings prior to and following the PSS filing. DPS Staff advises that there are many seasonal residences near the Project location and that the public meetings should be scheduled at dates and times that allow seasonal residents to participate.
3. Given that there will be open houses prior to and after the PSS is filed, all references to open houses should be plural.
4. DPS Staff advises that the Applicant should provide an estimated date that a toll-free number will be established in the revised PIP Plan.
5. Information on the Project website (Pages 11-12) should include the web address and an estimated date that the Company expects the website to be operational.
6. The Applicant indicates that it will utilize voting rolls in its notification to residents about the proposed Project. DPS Staff advises that the mailing should include not just addresses on the voting rolls but also the tax rolls to insure all available addresses are accounted for and used.
7. DPS Staff advises including a free newspaper publication, such as the Seneca County Area Shopper, that is available in hard copy, for posting Project notifications. A quotation mark is missing from the words “official newspaper” in the entry for the Ovid Gazette on Page 12.
8. On Page 16, the second paragraph beginning with “Section 487.4,” the word “minor” should be replaced with the word “minority.”
9. On Page 16, the table is described in the text as Table 3-1 but it is not labeled.
10. On Page 16, the third paragraph, line 7, the word “to” should be added between the words “impacts” and “any.”
11. On Page 17, the paragraph above Table 1, the name Suffolk County should be replaced with the correct county name, Seneca County.

FIGURES

Figures A-C do not clearly delineate the Project Area and location of the proposed facilities. A revised PIP Plan should include figures that are of an appropriate scale and show Project facilities, Project and Study Area boundaries, interconnection facilities, and include discernible scales and legends.

1. Figure A: The map of the Facility Area should be provided with a larger scale in order to view features within the Facility boundary and surrounding area. The Facility Area should be shown based on the existing parcel boundary of the site rather than an undefined rectangular area.
2. Figure B: The map of the 5-mile Study Area should include a greater scale that is appropriate for the Study Area limits. It appears that the Project Area and Study Area designations are only approximated. The map should define the Project Area and Study Area limits based on existing property boundary data for the proposed Facility.
3. Figure C: The municipal map should differentiate county, town, and village boundaries using symbols and labels that are easily distinguished, as appropriate. The Study Area, Project boundaries and the locations of interconnection facilities should be included in Figure C.

APPENDIX A: MASTER STAKEHOLDER LIST

The following regional parties should be added to the Project's master stakeholder list:

- a. Director, Seneca County Health Department;
- b. Director, Seneca County Department of Planning and Community Development;
- c. Finger Lakes Tourism Alliance;
- d. Finger Lakes Wine Alliance;
- e. Cayuga Wine Trail;
- f. Seneca Lake Wine Trail;
- g. Seneca Lake Pure Waters Association;
- h. Cayuga Lake Watershed Network
- i. Genesee/Finger Lakes Regional Planning Council; and
- j. Finger Lakes Land Trust
- k. Seneca Lake Guardian
- l. Finger Lakes Wine Business Coalition
- m. Finger Lakes Institute at Hobart and William Smith Colleges
- n. Geneva Area Chamber of Commerce

Contact persons as well as email addresses should be established for those agencies without an individual or contact email listed.

Further, the following should be added to the Stakeholder List

- a. Chair of the Public Service Commission
- b. U.S. Fish and Wildlife (Federal)
- c. Melissa Legge, Equal Justice Works Fellow, EarthJustice Northeast Office, 48 Wall Street, 19th Floor, New York, NY 10005

The Applicant should add the stakeholders identified by DPS Staff above and document the results of early consultations with these stakeholders in Appendix B in the revised PIP Plan.

DPS Staff notes that the names of the Fayette Town Clerk and Fayette Town Supervisor are not listed separately and were instead included in the boxes of the Yates County Clerk and Yates County Admin. DPS Staff advises that this be corrected in the revised PIP Plan.

APPENDIX B: STAKEHOLDER CONSULTATION GOALS AND SCHEDULE

1. NYSDEC Region 8 consultation goals should include discussions regarding the status and schedule of site monitoring and remediation, Project-related concerns and potential conflicts.
2. Appendix B should specifically identify outreach efforts in order to identify potential concerns of State Agencies regarding visual, noise, traffic and other Project related impacts on nearby State Parks (NYS Office of Parks, Recreation and Historic Preservation, Facilities Management Bureau) and designated Scenic Byways (NYS Department of Transportation, Scenic Byways Bureau).

ADDITIONAL COMMENTS

1. The Applicant should consider the following comments and list of visual and recreational resources within the Project and Study Areas. Additional contacts and future outreach efforts that will be used to develop the Visual Impacts Assessment for Exhibit 24 of the Application, as well as potential impacts to operations due to water and/or air quality changes that may result from the operation of the Facility, should also be identified.

<u>NYS SCENIC BYWAYS</u>	<u>NYS PARKS</u>	<u>CEMETERIES</u>	<u>HISTORIC OR LOCAL SIGNIFICANCE WITHIN PROJECT AREA</u>	<u>HISTORIC OR LOCAL SIGNIFICANCE OUTSIDE PROJECT AREA</u>
Cayuga Lake Scenic Byway NYS Route 86	Sampson State Park 6096 Route 96A Romulus, NY 14541	Sampson Veterans Memorial Cemetery	Romulus Historical Museum	Aurora, NY Historic Places

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Seneca Lake Scenic Byway NYS Route 414	Dean’s Cove Boat Launch 2678 Lower Lake Road Seneca Falls, NY 13148	Canoga Cemetery	Aaron Wilson House (National Register of Historic Places – 2001) 2037 Wilson Rd. (Ovid)	Wells College
Scenic Route 90 (Runs through Aurora)	Bonavista State Park Golf Course 7194 County Road 132 Ovid, NY 14521		Seneca County Courthouse Complex at Ovid (National Register of Historic Places – 1976) NY 414	Long Point State Park
			David and Mary Kinne Farmstead (National Register of Historic Places – 2007) 6858 Kinne Road (Ovid)	
			Willard Asylum for the Chronic Insane (Willard) (National Register of Historic Places – 1975)	
			Simon Ritter Cobblestone Farmhouse (National Register of Historic Places – 2008) 5102 NY 89 (Varick)	
			William Hoster House (National Register of Historic Places – 2002) 3832 NY 414 (Fayette)	

WINE & CRAFT BEVERAGE PRODUCERS

Visual impacts to area wineries, breweries, cideries, and distilleries in the Project Area should be considered for visual impacts as they are a constant significant source of tourism in the Finger Lakes area region, including at a minimum, the following list.

<u>ROMULUS</u>	<u>OVID</u>
<p>Swedish Hill Vineyard & Winery 4564 State Route 44 Romulus, NY 14541</p>	<p>Cayuga Ridge Estate Winery 6800 State Route 89 Ovid, NY 14521</p>
<p>Buttonwood Grove Winery 5986 State Route 89 Romulus, NY 14541</p>	<p>Hosmer Winery 7020 State Route 89 Ovid, NY 14521</p>
<p>Goose Watch Winery 5480 State Route 89 Romulus, NY 14541</p>	<p>Thirsty Owl Wine Company 6799 Elm Beach Rd. Ovid, NY 14521</p>
<p>Knapp Winery, Distilling, & Vineyard 2770 County Road 128 Romulus, NY 14541</p>	<p>Toro Run Winery 3050 Swick Rd. Ovid, NY 14521</p>
<p>Lakeshore Winery 5132 NY-89 Romulus, NY 14541</p>	<p>Lost Kingdom Brewery 7160 Main St., Ovid, NY 14521</p>
<p>Varick Winery & Vineyard 5102 NY-89 Romulus, NY 14541</p>	<p>Myer Farm Distillers 7350 New York 89 Ovid, NY 14521</p>

2. Tourism and recreational activities increase the viewer group size as visitors come to enjoy Cayuga and Seneca Lakes, the numerous vineyards, agricultural destinations, and the overall scenic quality of this area. Extensive views from the water to the Project Area may exist from both Cayuga and Seneca Lake as well as from State Parks, historical locations and cemeteries, including the Sampson Veteran’s Cemetery. Visible effects of Facility operation, such as smoke or vapor plumes, etc., Facility height, and the degree of natural screening by topography and vegetation must be considered when analyzing how the following areas could be impacted, as well as potential impacts to operations due to water and/or air quality changes that may result from the operation of the Facility.