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## **Restriction of PERC Activities: What It Means for PERC, the Propane Industry, and Consumers**

*On August 7, the Propane Education & Research Council (PERC) learned from the Commerce Department that the department's most recent price analysis found that the price of propane compared with a basket of other consumer energy prices exceeds the threshold established under the Propane Education and Research Act of 1996. As a result, the Council's activities are restricted to research and development, training, and safety matters.*

*PERC President and CEO Roy Willis sat down recently to talk about the restriction and its implications for PERC, the propane industry, and consumers.*

### **What will be the impact of the restriction?**

The Council's education programs have to be shut down. The biggest programs affected by the restriction are the residential advertising campaign, the National Energy Conversation, the state rebate matching program, Propane Days, and certain PERC exhibits and sponsorships at conventions and trade shows. There also are some education programs in agriculture and engine fuel that are being stopped.

### **How is the restriction being implemented?**

On the advice of legal counsel, the restriction is being implemented immediately as a cease-and-desist order. We are moving with dispatch at the staff level to review all of our programs, to identify those that are predominantly education in substance, and to end those programs. We are also developing a decision matrix to aid the state foundations and PERCs to review and terminate education programs funded through the state rebates.

### **So the state rebate programs are affected by the restriction, too?**

Yes, those programs are legally an extension of the Council's activities and are governed by the same rules and requirements as the Council's education programs. The restriction applies to all education programs funded through assessment funds.

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## **When you say that education programs are being shut down, what does that mean in practical terms?**

Initially, our working assumption was the restriction was prospective, meaning it limited our ability to fund any new education programs going forward. However, once the legal review was completed, PERC was advised to halt ongoing education programs approved prior to the restriction. As a consequence, we have canceled all planning, production, and placement of advertising funded before August 4, 2009, the date the restriction was announced. Canceling these programs means that PERC must exercise its termination rights under all contracts for education activities. No question about it, this is a disruptive process and we are likely to incur some losses before it's completed.

## **You don't sound too happy about that prospect.**

It's frustrating. This didn't need to happen. The Commerce Department could have modified its method of performing the price analysis, something PERC has repeatedly urged, and reached a finding that both complied with the letter of the law and didn't result in a restriction. They chose not to do so, even though the department has twice found that PERC programs were not the cause of higher propane prices. Everybody, including the department, knows that propane prices were increased by the unprecedented run-up in oil prices last year and not by PERC activities.

## **How long will the restriction last?**

It's hard to say. Our metrics contractor has looked at it and believes the restriction could last for years unless Commerce changes the way it does the price analysis, something they haven't been willing to do thus far. Because the analysis is based on a five-year rolling average of prices, the price surge of 2008 is like a pig that's been swallowed by a big snake; it's going to take some time to fully digest it.

## **How much money are we talking about?**

Annually, PERC allocates \$7-10 million into education programs. With the National Energy Conversation, our 2009 education expenditures were higher than usual, but we didn't expect that program to continue beyond this year anyway. So, on an ongoing basis, we're looking at approximately \$7-10 million, or between 15 and 20 percent of assessment revenues.

## **Given that you can't spend those funds on education, what are the Council's plans for that money or will the assessment rate be reduced?**

Reducing the assessment rate is certainly on the table, and the Council will look at that. Some councilors believe PERC is underspending on research given our commercialization strategy. So I think they will want to carefully review PERC's unrestricted programs — research and development, training, and safety — before deciding what steps to take on both sides of the ledger. We also need to confer with the state foundations and PERCs since rebates are a percentage of assessment collections, and an assessment cut necessarily reduces the rebates.

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**The restriction coincides with an ongoing review of PERC activities by the Government Accountability Office. What can you tell us about the status of the GAO review?**

As you know, the review was requested back in April by the chairman of the Senate Energy and Natural Resources Committee. The letter asked GAO to look at both PERC and the heating oil check-off. The GAO told us they expect the report could be completed in December 2009 or January 2010.

**What is GAO looking for?**

It's hard to say at this point. They've made over 100 specific information requests involving more than 200 individual documents.

**Are you concerned that the GAO is requesting so much information?**

Not really. First, many of the documents GAO requested are readily available to the public online. PERC is a model of transparency. From the very beginning, we have approached our responsibility to implement the Propane Education and Research Act with due diligence and in the public interest. I am confident that PERC can withstand scrutiny, but I expect some recommendations to come out of GAO. That's what they do. So we'll see what they have to say in the end. And of course, in the spirit of transparency and clarity, PERC will voice its views on their conclusions.

**Why do you think the Senate committee asked for a GAO review of PERC activities?**

On the advice of our attorneys, I have not had direct conversations with the Senate committee members and staff about the GAO review. Thus, I have no firsthand information. But I know this much: PERC is the first and the larger of the two congressionally authorized energy check-off programs. Congress authorized PERC in 1996, and it makes sense that after more than a decade of operations they would want to know how things are going. Also, there are other energy groups seeking congressional authorization for check-off programs, so that may have had a role in launching the review. That said, there always have been some controversy about how much money check-off programs spend on advertising versus other activities, and that may be a factor as well. That's just speculation on my part.

**Has PERC spent too much on advertising?**

My judgment is, no, PERC has not spent too much on advertising. There is no standard to guide these decisions. Absent a standard, the Council wrestles with this question every year in its budget, and we try to balance our allocation of resources across all four priority activities. Advertising is expensive to begin with, and reaching audiences in rural parts of the country can be especially costly, no question about it. However, over time as we've developed greater knowledge of the market and experience in communicating with these consumers, we've been able to reduce our advertising expenditures and allocate additional funds to the Council's research and development, training, and safety activities.

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## **Is PERC spending enough for research, training, and safety?**

I believe our expenditures have been aligned with both our capabilities and our opportunities in each of those priority activities. However, we've recently expanded our capabilities by bringing on a chief commercial officer to bring more expertise and discipline to our research and development activities. Our research and development function, as spelled out in the law, is focused on clean, efficient propane utilization equipment. I believe there is room to grow our research on such equipment and bring consumers clean, efficient options and bring the industry needed retail demand.

## **Do you believe the Council will expand its research investment going forward?**

They certainly will look at it. Keep in mind, research has always been a priority for the Council. Our first roadmap, published in 2000, was focused on research and development. We've been able to leverage our research spending by more than three to one by partnering with other researchers and obtaining matching funds. We have made technical investments in fuel cells, microturbines, combined heat and power units, hybrid propane-solar generators, and propane-fueled heat pumps. We have worked on engines and fuel systems, and researched tanks, valves, and other equipment required to safely handle, store, transport, and use propane. As a result, we've been able to help bring new safe, clean and efficient propane utilization technology to market.

## **What about training?**

I'm especially proud of the work PERC has done and continues to do in training. We have put unprecedented resources into training, starting with a multimillion-dollar, multiyear program to revise and digitize the de facto industry standard Certified Employee Training Program. Working with the state foundations and PERCs, we've seen a rise in workforce training at the local level. That builds a safer energy system. PERC also developed and continues to support the Propane Emergencies training program for emergency responders. We distributed it to every fire department in the country and continue to support it with online resources at [www.propanesafety.com](http://www.propanesafety.com). PERC has sponsored training programs for a number of professionals and tradesmen who work with propane, including architects, mechanics, builders, and firefighters, and will continue to do so.

## **The other unrestricted activity is safety. What does PERC have in mind there?**

Again, we want to build on the body of work we have already developed. Consumer safety is a particular interest of mine and a long-standing Council priority. We recently approved a request for proposals to conduct consumer safety research, and the Council will want to have that intelligence before deciding how to proceed. There are a couple of action items that don't need further research before acting. PERC has an online catalog of consumer safety products — brochures, pamphlets, bill stuffer, DVDs, and so on — that probably could be better utilized and more widely distributed. Also, our safety program to reach the largest group of propane consumers, the Safe Grilling Campaign, is certainly a candidate for expansion. More than 50 million Americans use propane for outdoor cooking. For many, that's their first and only experience with propane, and we want it to be a good experience so they'll consider other uses of propane in the future.

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## Thank you for your time. Do have anything to add?

We've covered a lot of ground, but I do have one thought that might wrap these subjects together. This is a time of change for PERC. The restriction certainly forces a change on us that I would prefer not to make, but we'll take those lemons and make lemonade. Yet PERC was changing before the Department of Commerce restriction was announced. Our strategy is focused on bringing new safe, clean, and efficient propane utilization equipment to market. To do that successfully, we are modeling our R&D work on the commercialization standard that both private and public research organizations use. That will help us take that effort to a new and hopefully more successful level. We've grabbed the low-hanging fruit with our earlier R&D efforts. Now the challenging work begins. There's risk, to be sure, but there's also a real reward if we succeed. That's what the Council is focused on.

*September 18, 2009*

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