

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition to Determine)
Need For the Gainesville Renewable)
Energy Center in Alachua County) DOCKET NO. 090451-EM
By Gainesville Regional Utilities)
and Gainesville Renewable Energy) FILED: January 14, 2010
Center, LLC.)

GAINESVILLE REGIONAL UTILITIES' AND
GAINESVILLE RENEWABLE ENERGY CENTER, LLC'S
REVISED REQUEST FOR CONFIDENTIAL CLASSIFICATION

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Gainesville Regional Utilities ("GRU") and Gainesville Renewable Energy Center, LLC ("GREC LLC"), collectively referred to as "Petitioners," pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submit this Revised Request for Confidential Classification of certain information provided in the response to POD No. 1 in the Staff's First Request for Production of Documents. In support of this Revised Request, Petitioners state:

1. On October 23, 2009, Petitioners filed a Notice of Intent to Request Confidential Classification for the Power Purchase Agreement for the Supply of Dependable Capacity, Energy

- COM and Environmental Attributes from a Biomass-Fired Power
APA
ECR Production Facility by and between Gainesville Renewable Energy
GCL Center, LLC and the city of Gainesville, Florida d/b/a
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Gainesville Regional Utilities, dated as of April 29, 2009 (the "PPA").

2. On October 28, 2009, Petitioners timely filed a Request for Confidential Classification concerning the PPA. Thereafter, Commission Staff requested that Petitioners reconsider their request for confidential classification with a view toward redacting substantially fewer provisions in the PPA. In response to Commission Staff's request, Petitioners hereby file this Revised Request for Confidential Classification. (The Petitioners note that, as a result of their reconsideration, they have "un-redacted" part or all of approximately 475 lines within the PPA for which they originally sought confidential classification.) The PPA includes confidential, proprietary business information, the disclosure of which would impair GREC LLC's competitive interests in its negotiations with potential purchasers of renewable energy from other projects being developed by GREC LLC, and would also impair GREC LLC's ability to contract for goods or services on favorable terms. The information for which Petitioners seek confidential classification is confidential negotiated pricing, fuel procurement, operational, and other confidential, proprietary business information between GRU and GREC LLC under the PPA, and this information is protected from public disclosure under the confidentiality clause in the PPA between GRU and GREC LLC.

3. The following exhibits are included with this revised request:

- a. Exhibit A is a table which identifies the portions of the PPA for which Petitioners seek confidential classification and the specific basis for seeking confidential treatment;
- b. Exhibit B is a package containing two copies of a redacted version of the PPA for which Petitioners request confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means;
- c. Exhibit C is a package containing an unredacted copy of the PPA for which Petitioners seek confidential treatment. Exhibit C is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted version, the information asserted to be confidential is highlighted in yellow; and
- d. Exhibit D is the affidavit of Joshua H. Levine submitted in compliance with Rule 25-22.006(4)(d), F.A.C., and in support of the Petitioners' request.

4. The information described above and identified on Exhibit "A" qualifies for confidential classification under Section 366.093(3), Florida Statutes. GREC LLC is developing other biomass projects in Florida and elsewhere and is currently in discussions with other utilities in the State of Florida regarding agreements to sell power from such facilities. The highlighted information in Exhibit C hereto includes cost, fuel procurement, operational, and other information. Disclosure of such information would harm GREC LLC's competitive business interests.

5. As noted above, in this Revised Request, the Petitioners are seeking confidential protection for approximately 475 lines fewer than they sought in their original request. The remaining information for which confidentiality is sought through this Revised Request satisfies the requirements of Section 366.093, Florida Statutes, because:

- a. it is owned or controlled by GREC LLC;
- b. it is intended to be and is treated by GREC LLC as private, confidential, proprietary business information;
- c. it has not been disclosed except pursuant to confidentiality agreements or legal process;
- d. disclosure of the information would impair GREC LLC's competitive business interests by revealing

to its business competitors unique, specifically negotiated business provisions, operational provisions, or provisions that relate both to business and operational matters, that would enable GREC LLC's business competitors to compete against GREC LLC to GREC LLC's detriment, including by enabling such competitors to "reverse engineer" either unique or proprietary pricing structure information that GREC LLC developed for the PPA;

- e. disclosure of the information would impair GREC LLC's competitive business interests by revealing to other potential purchasers of power from projects being developed by GREC LLC and its affiliates confidential pricing information and other contract provisions which could be used to establish a "floor" from which they could negotiate against GREC; and
- f. disclosure of the information would impair GREC LLC's competitive business interests by revealing to potential vendors upon which GREC LLC must rely for goods and services necessary to GREC LLC's performance under the PPA, information that would adversely impact GREC LLC's ability to contract

for such necessary goods and services on favorable terms.

Accordingly, the information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

6. The information for which the Petitioners seek confidential protection includes unique, specifically negotiated business terms, operational terms, and terms that include both business and operational provisions. Much of the information relates to specific values for negotiated variables, e.g., the information found within Sections 4.1, 4.2, 4.7.1, 12.3.1, 12.3.2, 12.4.1, 12.4.2, 13.1, and many other sections of the PPA. Other provisions for which the Petitioners seek confidential protection include unique, specific technical and operational information, such as the information redacted from Section 4.4.1(a)-(c), Appendix V, and Appendix IX of the PPA. Other provisions for which the Petitioners seek confidential protection include unique, specific, and specifically negotiated business and financial provisions, such as the information redacted from Section 3.3, 12.3.3, 27.2.5, 27.2.6, and 27.3 of the PPA.

7. The Petitioners believe that several of the remaining provisions require particular mention.

a. The information that the Petitioners seek to have protected in Sections 8.2.7, 8.2.8, lines 4

through 7 on page i of Schedule I, Definitions, the related information at line 8 on page ii of Schedule I, and the information at lines 29 through 34 on page ix of Schedule I, all relates to the unique, specifically negotiated pricing structure for certain components of the payments to be made by GRU to GREC LLC under the PPA. This pricing structure was developed by GREC LLC, in the course of developing the GREC Project and negotiating the PPA, to address the competitive interests of both GRU and GREC LLC, and this pricing structure is, to the best of GREC LLC's knowledge and belief, unique to the PPA, and to a similar PPA that an affiliate of GREC LLC negotiated in another state, which is also confidential. The public disclosure of this information would harm GREC LLC's competitive interests by revealing to its business competitors information that would enable them to mimic GREC LLC's unique pricing structure, and accordingly, GREC LLC treats this information as confidential and respectfully asks the Commission to grant it confidential protection under the Commission's rules.

- b. Similarly, the information at lines 3 through 7 of page viii of Schedule I and Section 8.2.11, which relates to the content of Section 3.3 of the PPA, comprises unique pricing terms that were specifically negotiated by GREC LLC and GRU for the PPA. The public disclosure of this information would significantly and adversely impact GREC LLC's competitive position in any negotiations with other potential purchasers of power from projects being developed by GREC LLC and its affiliates regarding the subject matter addressed in these provisions. Accordingly, GREC LLC treats this information as confidential and respectfully asks the Commission to grant it confidential protection under the Commission's rules.
- c. The information that is redacted from lines 5 and 6 on page 33 of the PPA is confidential, proprietary business information, the disclosure of which could adversely affect GREC LLC by enabling its business competitors to understand certain aspects of the ownership structure for the GREC Project. Accordingly, GREC LLC treats this information as confidential and respectfully asks

the Commission to grant it confidential protection under the Commission's rules.

- d. The information that is redacted from Section 27.3 of the PPA, on page 35, comprises detailed negotiated business terms of the PPA that are unique, and that were specifically negotiated by GRU and GREC LLC. The disclosure of this information would adversely affect GREC LLC by giving potential purchasers of power to be produced by future GREC LLC projects a "floor" from which they could negotiate against GREC. Accordingly, GREC LLC treats this information as confidential and respectfully asks the Commission to grant it confidential protection under the Commission's rules.

8. Petitioners request that the information identified above be classified as "proprietary confidential business information" within the meaning of Section 366.093(3), Florida Statutes; that the information remain confidential for a period of at least 18 months as provided in Section 366.093(4), Florida Statutes; and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business.

WHEREFORE, for the foregoing reasons, Petitioners respectfully request that this Revised Request for Confidential Classification be granted.

Respectfully submitted this 14th day of January, 2010.

A handwritten signature in black ink, appearing to read "Roy C. Young", is written over a horizontal line.

Roy C. Young
Florida Bar No.098428
Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
Phone: 850/222-7206
FAX: 850/561-6834

Attorneys for GREC and GRU

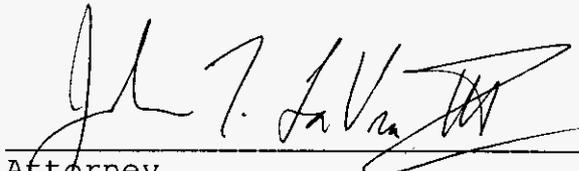
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*) or U.S. Mail this 14th day of January, 2010, on the following:

Erik Sayler/Martha Carter Brown*
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Raymond O. Manasco, Jr.
Gainesville Regional Utilities
P.O. Box 147117
Station A-138
Gainesville, FL 32614-7117

J.R Kelly
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399



Attorney

STATE OF FLORIDA

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
NANCY ARGENZIANO
NATHAN A. SKOP



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: January 14, 2010

TO: John T. Lavia, III - Young Van Assenderp, P.A.

FROM: Marguerite H. Mclean, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 090451-EM or, if filed in an undocketed matter, concerning certain information in response to staff's 1st request for PODs (No. 1), and filed on behalf of GRU; GREC The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite Lockard, Deputy Clerk, at (850) 413-6770.

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us