

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval)
Of Solar Energy Power Purchase)
Agreement between Tampa Electric) DOCKET NO. 090109-EI
Company and Energy 5.0, LLC.)
_____) FILED: April 22, 2010

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COMMISSION
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ENERGY 5.0 LLC'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION - RESPONSES TO
STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-4)

Energy 5.0 LLC ("Energy 5.0"), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Request for Confidential Classification of certain information provided in the confidential response to Staff's First Set of Interrogatories Nos. 1-4, which were served on April 1, 2010. In support of this Request, Energy 5.0 states:

1. On March 12, 2010, the Commission Staff served their First Set of Interrogatories (Nos. 1-4) to Energy 5.0. On April 1, 2010, Energy 5.0 filed its Notice of Intent to Request Confidential Classification of portions of its responses to each of Interrogatories Nos. 1-4.

2. The information for which Energy 5.0 seeks confidential classification is confidential information concerning certain cost, revenue and financing structures for Energy 5.0's Florida Solar I

COM _____
APA Project (the "Project"), including estimated capital costs;
ECR _____
GCL operation and maintenance costs; annual and levelized cost
RAD _____
SSC _____
ADM _____
OPC _____
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average capitalized costs for financing of Project. The subject information is the confidential, proprietary, business information of Energy 5.0, the disclosure of which would cause harm to Energy 5.0's competitive business interests. Additionally, the information is also regarded as trade secret information by Energy 5.0, and accordingly, the public disclosure of the information is prohibited by Section 812.081(2), Florida Statutes.

3. The following exhibits are included with this request:

- a. Exhibit A is a table that identifies the portions of the responses to Interrogatories Nos. 1-4 for which Energy 5.0 seeks confidential classification and the specific basis for seeking confidential treatment;
- b. Exhibit B includes two copies of a redacted version of the responses to Interrogatories Nos. 1-4 for which Energy 5.0 requests 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 an unredacted copy of the responses to Interrogatories Nos. 1-4 for which Energy 5.0 seeks 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 Gil A. Weisblum of Energy 5.0 submitted in compliance with Rule 25-22.006(4)(d), F.A.C., and in support of Energy 5.0's request.

4. The information described above and identified on Exhibit "A" qualifies for confidential classification under Section 366.093(3), Florida Statutes. In addition to the Project, Energy 5.0 is developing other solar projects in Florida and elsewhere, and Energy 5.0 is currently in discussions with other utilities in the State of Florida and elsewhere regarding agreements to sell power from such facilities. The highlighted information provided in Energy 5.0's responses to Interrogatories Nos. 1-4 includes the projected payments to be made by Tampa Electric Company ("TECO") to Energy 5.0, as well as projected capital, O&M, and financing information that, if disclosed, could be used to compute or "reverse engineer" the payments and prices under the negotiated solar power agreement between Tampa Electric Company and Energy 5.0. The disclosure of this confidential information would harm Energy 5.0's competitive business interests.

5. The information for which confidentiality is sought through this Request satisfies the requirements of Section 366.093, Florida Statutes, because:

- a. it is owned and controlled by Energy 5.0;
- b. it is intended to be and is treated by Energy 5.0 as its private, confidential, proprietary, trade secret business information;
- c. it has not been disclosed to anyone outside Energy 5.0 except pursuant to confidentiality agreements or legal process;
- d. disclosure of the information would impair the competitive business interests of Energy 5.0 by revealing to its business competitors Energy 5.0's confidential pricing information, which would enable Energy 5.0's business competitors to compete against Energy 5.0 to its detriment, including by enabling such competitors to know Energy 5.0's proprietary pricing structure information that Energy 5.0 developed and negotiated specifically in the power purchase agreement between Energy 5.0 and TECO;
- e. disclosure of the information would impair Energy 5.0's competitive business interests by revealing to other potential purchasers of power from projects being developed by Energy 5.0 and its affiliates confidential pricing information which could be used to establish a "floor" from which such other

potential purchasers could negotiate against Energy 5.0; and

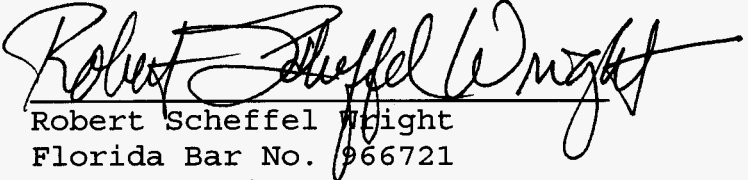
- f. disclosure of the information would impair Energy 5.0's competitive business interests by revealing, to potential vendors upon which Energy 5.0 must rely for goods and services necessary to its performance under the power purchase agreement between Energy 5.0 and TECO, information that would adversely impact Energy 5.0'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, as well as protected from public disclosure by Section 815.045, Florida Statutes, and by Section 812.081(2), Florida Statutes.

6. Energy 5.0 requests 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, Energy 5.0 respectfully requests that this Request for Confidential Classification be granted.

Respectfully submitted this 22nd day of April, 2010.



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 Energy 5.0 LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic mail and hand delivery (*) or U.S. Mail this 22nd day of April, 2010, on the following:

Erik L. Sayler, Esquire *
Jennifer Brubaker*
Anna Williams*
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Ms. Paula K. Brown
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111

Energy 5.0, LLC
1601 Forum Place, Suite 1010
West Palm Beach, FL 33401

James D. Beasley, Esquire
Ausley Law Firm
Post Office Box 391
Tallahassee, Florida 32302

Richard A. Zambo
Mosaic Fertilizer, LLC
2336 S.E. Ocean Blvd. #309
Stuart, FL 34996

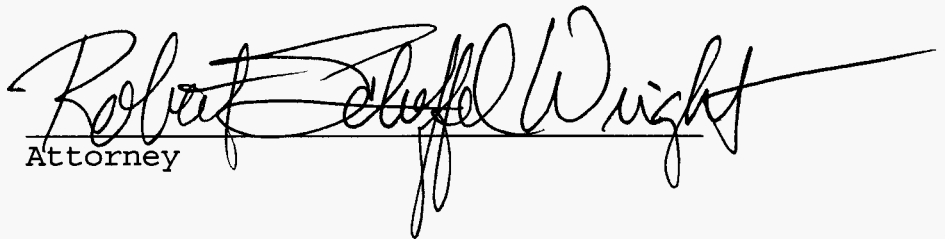

Attorney

EXHIBIT A

JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF INFORMATION

DOCUMENT	PAGE NO.	PORTION OF PAGE*	STATUTORY JUSTIFICATION
Energy 5.0's Response to Staff's Interrogatory No. 1	Page 1 of response	Portions of LL 10, 19, 23 and 28	§ 366.093(3)(d)&(e), Fla. Stat - confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. - trade secret information
Energy 5.0's Response to Staff's Interrogatory No. 1	Page 2 of response	All numbers included in the table	§ 366.093(3)(d)&(e), Fla. Stat - confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. - trade secret information
Energy 5.0's Response to Staff's Interrogatory No. 2	Page 3 of response	Portions of LL 2, 5, 6 and 7 and all of the numbers included in the table	§ 366.093(3)(d)&(e), Fla. Stat - confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. - trade secret information
Energy 5.0's Response to Staff's Interrogatory No. 3a	Page 4 of response	Portions of LL 9, 20, 21, 22 and 24	§ 366.093(3)(d)&(e), Fla. Stat - confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. - trade secret information
Energy 5.0's Response to Staff's Interrogatory No. 3b	Page 9 of response	Portions of LL 3, 4, 5 and 6	§ 366.093(3)(d)&(e), Fla. Stat - confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. - trade secret information

Energy 5.0's Response to Staff's Interrogatory No. 4	Page 6 of response	Portions of LL3 and 18	§ 366.093(3)(d)&(e), Fla. Stat - confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. - trade secret information
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*For purposes of determining the line number of the response, the lines of the Staff's interrogatories are not included, but the lines labeled "Response" is included.

STATE OF FLORIDA

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III



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

Public Service Commission

ACKNOWLEDGEMENT

DATE: April 22, 2010

TO: Robert Scheffel Wright

FROM: Diamond Williams, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 090109-EI or, if filed in an undocketed matter, concerning Response to Staff's First Set of Interrogatories Nos. 1-4, and filed on behalf of Energy 5.0 L L C. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.

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

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