

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition to Determine Need for Gainesville Renewable Energy Center in Alachua County by Gainesville Regional Utilities and Gainesville Renewable Energy Center, LLC.	DOCKET NO. 090451-EM ORDER NO. PSC-10-0254-CFO-EM ISSUED: April 26, 2010
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ORDER GRANTING GAINESVILLE REGIONAL UTILITIES
AND GAINESVILLE RENEWABLE ENERGY CENTER, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02291-10)

On March 30, 2010, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), Gainesville Regional Utilities ("GRU") and Gainesville Renewable Energy Center, LLC ("GREC LLC") filed a Request for Confidential Classification of certain information provided in their response to Staff's Fifth Set of Interrogatories (Nos. 107-116), Interrogatory No. 114 (Document No. 02291-10). This request was filed in Docket No. 090451-EM.

Request for Confidential Classification

Section 366.093(1), F.S., provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Paragraphs (a), (d) and (e) of Section 366.093(3), F.S., provide that proprietary confidential business information includes, but is not limited to "[t]rade secrets;" "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

GRU and GREC LLC contend that portions of the information contained in their response to Staff's Fifth Set of Interrogatories (Nos. 107-116), specifically information contained in their response to Staff's Interrogatory No. 114, as more fully described in the table in Attachment A, falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093(2), F.S., and Rule 25-22.006(3), F.A.C. GRU and GREC LLC state that this information is intended to be and is treated by GRU and GREC LLC as private and has not been publicly disclosed, except pursuant to confidentiality agreements or legal process, as required by Section 366.093(3), F.S.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

GRU and GREC LLC assert that the information for which they seek confidential classification includes confidential summary information regarding the net present value of GRU's projected payments and the levelized cost of electricity, under different scenarios, for the in-service date of the GREC project, for resale of 50 MW of the project's capacity and output; and for carbon regulation costs and for costs associated with potential renewable portfolio standards or similar regulatory requirements. GRU and GREC LLC aver that this information is regarded as trade secret information by GREC LLC and is entitled to protection under §§366.093(3) and 812.081(2), F.S.

In addition, GRU and GREC LLC further assert that GREC LLC is developing other biomass projects in Florida and elsewhere, and GREC LLC is currently in discussions with other utilities in Florida regarding agreements to sell power from facilities similar to the Gainesville project. GRU and GREC LLC state the portions of the information alleged to be confidential contain projected contract payments to be made by GRU to GREC LLC, as well as information that, if disclosed, could be used to compute or "reverse engineer" the contract payments. GRU and GREC LLC maintain disclosure of this confidential information would harm GREC LLC's competitive business interests, as it would reveal to business competitors GREC LLC's confidential pricing information, which would enable those business competitors to compete against GREC LLC to its detriment, including by enabling such competitors to "reverse engineer" proprietary pricing structure information that GREC LLC developed and negotiated specifically in the power purchase agreement between GRU and GREC LLC. Moreover, GRU and GREC LLC allege disclosure of the information would impair GREC LLC's competitive interests by revealing to other potential purchasers of power from projects being developed by GREC LLC and its affiliates confidential pricing information which could be used to establish a floor from which other potential purchasers could negotiate against GREC LLC.

Finally, GRU and GREC LLC allege that public disclosure of the material identified as proprietary, confidential business information would impair GREC LLC's competitive business interests by revealing to potential vendors upon which GREC LLC must rely for goods and services information that would adversely impact GREC LLC's ability to contract for goods and services on favorable terms.

Ruling

Upon review, it appears the information specified in the table in Attachment A satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and thus, shall be treated as confidential. The identified information clearly constitutes "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 02291-10, as specifically described in Attachment A, shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless GRU, GREC LLC, or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

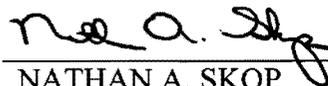
Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Gainesville Regional Utilities and Gainesville Renewable Energy Center, LLC's Request for Confidential Classification of information contained in Document No. 02291-10, as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document No. 02291-10 for which confidential classification has been granted, as described in Attachment A, shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 26th day of April, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

DOCUMENT	PAGE NO.	SECTION/DEFINITION/ PORTION OF PAGE
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 5 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 6 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 8 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 9 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 11 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 12 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 14 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 15 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 17 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 18 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 20 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC
GRU and GREC LLC Response to Staff's Interrogatory No. 114	Page 21 of Response	The six columns of numeric data headed GRU Native Assets, Market, and GREC