

Dorothy Menasco

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Thursday, April 29, 2010 2:37 PM
To: paulastahmer@aol.com; diandv@bellsouth.net; Raymond "Skip" Manasco; Erik Sayler; Filings@psc.state.fl.us; Martha Brown; Theresa Walsh; Schef Wright
Subject: Electronic Filing - Docket 090451-EM
Attachments: 090451.Motion2ReschSpecAgendaConf.4-29-10.pdf

a. Person responsible for this electronic filing:

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b. 090451-EM

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.

c. Document being filed on behalf of Gainesville Regional Utilities and Gainesville Renewable Energy Center, LLC.

d. There are a total of 6 pages.

e. The document attached for electronic filing is Gainesville Regional Utilities and Gainesville Renewable Energy Center, LLC's Motion to Reschedule Special Agenda Conference.

(see attached file: 090451.Motion2ReschSpecAgendaConf.4-29-10.pdf)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

4/29/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: JOINT PETITION TO DETERMINE NEED)
FOR GAINESVILLE RENEWABLE ENERGY CENTER) DOCKET NO. 090451-EM
IN ALACHUA COUNTY, BY GAINESVILLE)
REGIONAL UTILITIES AND GAINESVILLE) FILED: April 29, 2010
RENEWABLE ENERGY CENTER, LLC)
_____)

GAINESVILLE REGIONAL UTILITIES' AND
GAINESVILLE RENEWABLE ENERGY CENTER, LLC'S
MOTION TO RESCHEDULE SPECIAL AGENDA CONFERENCE

Gainesville Regional Utilities ("GRU") and Gainesville Renewable Energy Center, LLC ("GREC LLC"), collectively referred to as "Petitioners," pursuant to Rule 28-106.204(1), Florida Administrative Code ("F.A.C."), respectfully move the Florida Public Service Commission ("Commission") to reschedule the Special Agenda Conference in this docket currently scheduled for June 2, 2010, to a date no later than May 28, 2010. In support of this request, Petitioners state as follows.

BACKGROUND

1. In this docket, the Petitioners are seeking the Commission's affirmative determination of need for the Gainesville Renewable Energy Center, a proposed biomass-fired electric generating facility (the "Project") to be located at GRU's existing Deerhaven power plant site in Gainesville, Alachua County, Florida.

2. The Commission held a formal administrative hearing in this matter on December 16, 2009, where the parties entered testimony and exhibits into the record. Commissioners Argenziano, Edgar, Skop and Klement participated in the December 16, 2009 hearing.

3. At the Commission's Agenda Conference on February 9, 2010, the Commission considered the Staff's recommendation regarding Petitioners' requested determination of need for the Project. During their deliberations and discourse with the Staff, the Commissioners raised a number of questions about the Project that were not readily answered by the evidence of record from the December 16 hearing. In light of these questions, at the conclusion of the February 9 Agenda Conference discussion, the Commission granted Petitioners' request to defer the Commission's decision to a future date, in order to allow for a limited reopening of the record to receive supplemental testimony and exhibits. Commissioners Argenziano, Edgar, Skop, Klement and Stevens participated in the February 9, 2010 Agenda Conference and voted to support deferral and hold the supplemental evidentiary hearing.

4. The evidentiary hearing to receive supplemental testimony and exhibits is scheduled for May 3, 2010.

5. On April 27, 2010, the Florida Senate voted to reject the appointments of Commissioners Klement and Stevens to the Commission. Section 114.05(1)(d), Florida Statutes, provides in pertinent part as follows:

Unless an earlier date is specified in the motion to refuse to confirm, the ad interim term of the appointee whose appointment has been rejected by the Senate shall end at the adjournment of the session of the Senate at which the vote on his or her confirmation was taken. An appointee whose appointment to office has been rejected by the Senate shall hold over until his or her successor is appointed and qualified, but the period of such holdover shall not exceed 30 days from the adjournment of the session of the Senate.

(Emphasis supplied.) The Florida Legislature is scheduled to adjourn on April 30, 2010. Accordingly, the statute requires that Commissioners Klement and Stevens "shall hold over" in their positions until May 30, 2010.¹

¹ Strictly speaking, Commissioners Klement and Stevens are required to "hold over" until their successors are appointed, but no longer than May 30, 2010. Pursuant to Section 350.031(8), Florida Statutes, under the present circumstances, the Public Service Commission Nominating Council is required to "initiate . . . the nominating process within 30 days." Considering the practical aspects of the Nominating Council's processes, it appears highly unlikely that any successor Commissioners will be appointed before May 30, 2010.

REQUEST TO RESCHEDULE SPECIAL AGENDA CONFERENCE

6. The Special Agenda Conference at which the Commission will make its final determination of need for the Project is currently scheduled for June 2, 2010, three days after the holdover terms of Commissioners Klement and Stevens expire. Consequently, under the current schedule, Commissioners Klement and Stevens could not participate in the final decision in this docket.

7. Petitioners respectfully request that the Special Agenda Conference in this docket currently scheduled for June 2, 2010, be rescheduled to a date no later than Friday, May 28, 2010. Rescheduling the Special Agenda Conference to a date no later than May 28, 2010, will allow the important issues raised in this docket to be resolved by the full Commission. Significantly, both Commissioner Klement and Commissioner Stevens have been actively involved in this docket, and the supplemental hearing will address questions raised on February 9 by Commissioners Klement and Stevens. Rescheduling the Special Agenda Conference will enable Commissioners Klement and Stevens to complete their review of these important issues and participate in the Commission's final vote.

8. Rule 28-106.211, F.A.C., grants the Presiding Officer in an administrative proceeding the authority to issue any

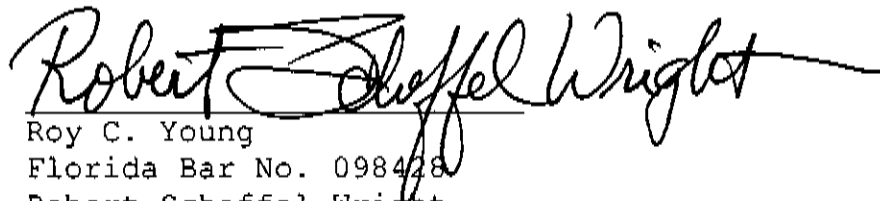
orders necessary "to prevent delay and promote the just, speedy, and inexpensive determination of all aspects of the case . . ."

The Chairman of the Commission, as the Presiding Officer in this docket, or the full Commission, clearly has the authority to grant the relief requested herein. Moreover, no party to the proceeding will be prejudiced by the minor alteration to the schedule proposed by the Petitioners.

CONCLUSION AND RELIEF REQUESTED

WHEREFORE, for the reasons set forth above, Gainesville Regional Utilities and Gainesville Renewable Energy Center, LLC, respectfully request that the Commission reschedule the Special Agenda Conference in this docket currently scheduled for June 2, 2010, to a date no later than Friday, May 28, 2010.

Respectfully submitted this 29th day of April, 2010.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by United States Mail and electronic mail on this 29th day of April, 2010.

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