

**Ruth Nettles**

090372-EQ

**From:** Amra Rickwa [arickwa@icardmerrill.com]  
**Sent:** Wednesday, February 17, 2010 4:55 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 090372-EQ - US Funding, LLC's Response to Florida Biomass Energy, LLC's Motion to Dismiss  
**Attachments:** US Funding Response to Biomass Motion to Dismiss.pdf

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b. Docket No. 090372-EQ In re: Order No. PSC-09-0852-PAA-EQ Issued December 30,2009, In re: Petition for approval of negotiated purchase power contract with FB Energy, LLC by Progress Energy Florida

c. Filed on behalf of U.S. Funding Group, LLC.

d. Total Pages = 3

e. U.S. Funding, LLC's Response to Florida Biomass Energy, LLC's Motion to Dismiss

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2/18/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of negotiated purchase power contract with FB Energy, LLC by Progress Energy Florida.      DOCKET NO. 090372-EQ  
ORDER NO. PSC-09-0852-PAA-EQ  
ISSUED: December 30, 2009

**US FUNDING GROUP, LLC'S RESPONSE TO  
FLORIDA BIOMASS ENERGY, LLC'S MOTION TO DISMISS**

US FUNDING GROUP, LLC ("Funding Group"), pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C), hereby files this response in opposition to the Motion to Dismiss filed in this proceeding by FLORIDA BIOMASS ENERGY, LLC ("FB Energy") on February 9, 2010, and in support thereof states as follows:

1. Funding Group's Petition, in its entirety, and specifically, Paragraphs 4, 7 and 33, identify Funding Group's substantial interests that are or will be affected by the proposed action.
2. Funding Group's Petition is legally sufficient to establish Funding Group's standing to participate in these proceedings.

WHEREFORE, Funding Group hereby requests:

1. The Commission grant the undersigned a hearing in this matter, and at the conclusion of the same, that the Commission deny FB Energy's Motion to Dismiss; and
2. The Commission refer this matter to the Division of Administrative Hearings for the assignment of an Administrative Law Judge to conduct a hearing on the Petition; and

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3. Should the Commission grant FB Energy's Motion to Dismiss, that it be without prejudice to Petitioner's filing a timely amended Petition curing any identified defect.

Respectfully submitted,

s/ Stacy L. Dillard-Spahn

Robert K. Lincoln

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 17, 2010, I electronically filed the foregoing with the Florida Public Service Commission at [filings@psc.state.fl.us](mailto:filings@psc.state.fl.us) and furnished a true and correct copy of same by electronic and/or U.S. Mail to the following:

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s/ Stacy L. Dillard-Spahn