

Ruth Nettles

090372-EQ

From: Amra Rickwa [arickwa@icardmerrill.com]
Sent: Wednesday, February 17, 2010 5:01 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 090372-EQ - US Funding, LLC's Amended Response to Florida Biomass Energy, LLC's Motion to Dismiss
Attachments: US Funding Amended Response to Biomass Motion to Dismiss.pdf

a. Person responsible for filing

Robert K. Lincoln
Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.
2033 Main Street, Suite 600
Sarasota, FL 34237
Telephone: (941) 366-8100 x 340
Facsimile: (941) 366-6384
rlincoln@icardmerrill.com

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 Amended Response to Florida Biomass Energy, LLC's Motion to Dismiss

Robert K. Lincoln, Esq.



Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.
2033 Main Street, Suite 600
Sarasota, FL 34237
Telephone: (941) 366-8100 x 340
Facsimile: (941) 366-6384
rlincoln@icardmerrill.com

The information transmitted is intended solely for the individual or entity to which it is addressed and may contain confidential and/or privileged material. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in this message. Any review, retransmission, dissemination or other use of or taking action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you have received this email in error, please contact the sender by

DOCUMENT NUMBER-DATE
01077 FEB 18 09

2/18/2010

FPSC-COMMISSION CLERK

2/18/2010 10:09:20 AM 2 of 2

reply email and delete the material from any computer.
Thank you very much.

For more information about Icard Merrill Cullis Timm Furen & Ginsburg,
P.A., please visit us at <http://www.icardmerrill.com>

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 AMENDED 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

DOCUMENT NUMBER-DATE
01077 FEB 18 2010
FPSC-COMMISSION CLERK

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

Fla. Bar No. 0006122

Stacy Dillard-Spahn

Fla. Bar No. 0022496

Icard, Merrill, Cullis, Timm,

Furen & Ginsburg, P.A.

2033 Main Street, Suite 600

Sarasota, Florida 34237

Tel: 941-366-8100 / Fax: 941-366-6384

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 and furnished a true and correct copy of same by electronic and/or U.S. Mail to the following:

FB Energy, LLC
Richard Jensen
100 Third Ave. West
Bradenton, FL 34205
Ph: 941-567-1631

Progress Energy Florida, Inc.
Mr. Paul Lewis, Jr.
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740
Ph: 850-222-8738
Fax: 222-9768
paul.lewisjr@pgnmail.com

Progress Energy Service Company, LLC (09a)
John T. Burnett
P.O. Box 14042
Saint Petersburg, FL 33733-4042
Ph: 727-820-5184
Fax: 727-820-5249

Dye, Deitrich, Petruff & St. Paul, P.L.
Patricia A. Petruff, Esq.
James D. Dye, Esq.
1111 Third Avenue West – Suite 300
Bradenton, FL 34205
Ph: 941-748-4411
Fax: 941-748-1573
ppetruff@diefirm.com
jdye@diefirm.com

Jean Hartman/Jennifer Brubaker
Florida Public Service Commission
Office of the Public Counsel
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Young Van Assenderp, P.A.
Robert Scheffel Wright
225 South Adams Street – Suite 200
Tallahassee, Florida 32301
Ph: 850-222-7206
Fax: 850-561-6834

s/ Stacy L. Dillard-Spahn