

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-10-0310-PCO-EM
ISSUED: May 13, 2010

ORDER DENYING INTERVENORS' REQUEST
FOR OFFICIAL RECOGNITION OF DOCUMENTS

Background

By Order No. PSC-09-0671-PCO-EM, issued October 8, 2009, the procedures and controlling dates in this docket were established. By Order No. PSC-10-0135-PCO-EM, issued March 8, 2010, an additional hearing was scheduled initially for April 15, 2010. By Order No. PSC-10-0221-PCO-EM, issued April 6, 2010, the additional hearing was rescheduled to Monday, May 3, 2010. The purpose of this additional hearing was to reopen the record and allow supplemental testimony and exhibits to be submitted by the Gainesville Regional Utilities (GRU) and Gainesville Renewable Energy Center, LLC (GREC).

By Order Nos. PSC-10-0136-PCO-EM and PSC-10-0137-PCO-EM, issued March 8, 2010, Ms. Deevey and Ms. Stahmer (Intervenors) were each granted *pro se* intervention in this docket. On Saturday, May 1, 2010, the Intervenors filed a joint request for official recognition of documents. On Sunday, May 2, 2010, GRU/GREC responded to their request, asserting the request should be denied. The additional hearing was held on Monday, May 3, 2010.

By email on May 4, 2010, the Intervenors withdrew their request for official recognition of all but two documents. Those documents are the "City of Gainesville 1605b Baseline Greenhouse Gas Inventory Report" and the "GDS Draft Report, Peer Review of ICF Draft Report February 2006." By email on May 4, 2010, GRU/GREC renewed their assertion that the request be denied.

Request for official recognition by Intervenors

The Intervenors assert they asked GRU/GREC to stipulate to all the documents listed in their request, but GRU/GREC declined to do so. The Intervenors assert that all documents are publically available. The Intervenors requested that the Commission take official recognition of all the documents, but later withdrew their request to all documents except the "City of Gainesville 1605b Baseline Greenhouse Gas Inventory Report" and "GDS Draft Report, Peer Review of ICF Draft Report February 2006." The Intervenors assert that these two documents are available online at the Gainesville City's website.

DOCUMENT NUMBER DATE

04048 MAY 13 2010

FPSC-COMMISSION CLERK

Response by GRU/GREC

GRU/GREC assert that the Intervenor's request does not explain why these documents qualify for official recognition. GRU/GREC assert that a request for official recognition is governed by Sections 120.569(2)(i), 90.202, and 90.203, Florida Statutes (F.S.). GRU/GREC assert that none of the documents in the Intervenor's request satisfy the statutory requirements.

Regarding the "City of Gainesville 1605b Baseline Greenhouse Gas Inventory Report" and the "GDS Draft Report, Peer Review of ICF Draft Report February 2006," GRU/GREC assert that these documents are a report and draft report submitted to the Gainesville City Commission. GRU/GREC asserts that these documents do not qualify for official recognition under Section 90.202(10), F.S., because they are not duly enacted ordinances and regulations of a municipality. Section 90.202(10), F.S., states: "Duly enacted ordinances and resolutions of municipalities and counties located in Florida, provided such ordinances and resolutions are available in printed copies or as certified copies." GRU/GREC assert that these documents do not satisfy the statutory criteria for official recognition and the request should be denied.

GRU/GREC LLC further assert that official recognition is not intended to be a mechanism by which a party can attempt to introduce evidence without a sponsoring witness. If the request for official recognition does not satisfy the statutory requirements, it must be denied.

Analysis

When analyzing a request for official recognition pursuant to 90.202, F.S., the Commission must evaluate the statutory criteria. In addition, when evaluating the request pursuant to the statute, the request must comply with any controlling procedural orders issued in the applicable docket. Here, the Intervenor is seeking official recognition of "City of Gainesville 1605b Baseline Greenhouse Gas Inventory Report" and "GDS Draft Report, Peer Review of ICF Draft Report February 2006." Having reviewed the motion and response and the two documents, I find that the request for official recognition does not satisfy Section 90.202(10), F.S., or any of the statutory criteria contained in Section 90.202, F.S.

Additionally, the request does not comply with the controlling procedural order, Order No PSC-09-0671-PCO-EM. This order requires that any request for official recognition must be filed two business days prior to the first scheduled hearing date. In that this request was filed less than two business days prior to the hearing, the request is also untimely.

Therefore, based upon the reasons stated herein, the Intervenor's request for official recognition of the "City of Gainesville 1605b Baseline Greenhouse Gas Inventory Report" and the "GDS Draft Report, Peer Review of ICF Draft Report February 2006" is hereby denied.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that the Intervenor's request for official recognition of documents is hereby denied as set forth in the body of this Order.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 13th day of May, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(SEAL)

ELS

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 25-22.0376, 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.