

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition to Determine)
Need For the Gainesville Renewable)
Energy Center in Alachua County)
By Gainesville Regional Utilities)
and Gainesville Renewable Energy)
Center, LLC.)

DOCKET NO. 090451-EM
FILED: March 29, 2010

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GAINESVILLE REGIONAL UTILITIES' AND
GAINESVILLE RENEWABLE ENERGY CENTER, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION - RESPONSE TO
STAFF'S INTERROGATORY NO. 102

Gainesville Regional Utilities ("GRU") and Gainesville Renewable Energy Center, LLC ("GREC LLC"), collectively referred to as "Petitioners," pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submit this Request for Confidential Classification of certain information provided in the response to Staff's Interrogatory No. 102. In support of this Request, Petitioners state:

1. On March 1, 2010, Petitioners filed a Notice of Intent to Request Confidential Classification for certain information provided in the response to Staff's Interrogatory No. 102. The Petitioners acknowledge that the instant Request for Confidential Classification is thus one week late, relative to the normal

requirement of Rule 25-22.006(3)(a), F.A.C., and as good cause for respectfully asking the Commission to grant this Request, albeit filed late, the Petitioners state as follows.

COM _____
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Petitioners' counsel duly, and in the normal course of business, asked his secretary on March 1, 2010, to "calendar" the due date for this Request. Counsel's secretary was absent from work due to illness for part or all of all five working days during the week of March 22-26, 2010, and unfortunately did not remind counsel that the Request was due; counsel discovered the lapse in another review of filings in the docket late on the afternoon of Friday, March 26, and has accordingly prepared and caused this Request for Confidential Classification to be filed as soon as practicable on the morning of the next business day.

2. The information for which Petitioners seek confidential classification is confidential summary information regarding the net present value of GRU's projected payments, and the levelized cost of electricity, under each of the six binding proposals submitted to GRU in its request for proposals and competitive solicitation processes that led to the selection of the 100MW proposal for the Gainesville Renewable Energy Center, submitted by Nacogdoches Power, LLC. The subject proposals were submitted by Nacogdoches Power, Covanta, and Sterling Planet. The subject information reflects the confidential, proprietary, business information of GREC LLC, Covanta, and Sterling Planet, the disclosure of which would cause harm to the competitive business interests of these entities. Additionally, the information is also regarded as trade secret information by all three entities,

and accordingly, the public disclosure of the information is prohibited by Section 812.081(2), Florida Statutes.

3. The following exhibits are included with this revised request:

- a. Exhibit A is a table that identifies the portions of the response to Interrogatory No. 102 for which Petitioners seek confidential classification and the specific basis for seeking confidential treatment;
- b. Exhibit B is a package containing two copies of a redacted version of the response to Interrogatory No. 102 for which Petitioners request confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means;
- c. Exhibit C is a package containing an unredacted copy of the response to Interrogatory No. 102 for which Petitioners seek confidential treatment. Exhibit C is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted version, the information asserted to be confidential is highlighted in yellow; and
- d. Exhibit D includes the affidavits of Joshua H. Levine of GREC LLC and Edward J. Regan of GRU

submitted in compliance with Rule 25-22.006(4)(d), F.A.C., and in support of the Petitioners' request.

4. The information described above and identified on Exhibit "A" qualifies for confidential classification under Section 366.093(3), Florida Statutes. With respect to the information for the Nacogdoches Power proposals, the Commission is aware that GREC LLC is the successor to Nacogdoches Power, and GREC LLC is developing other biomass projects in Florida and elsewhere and is currently in discussions with other utilities in the State of Florida regarding agreements to sell power from such facilities. The highlighted information regarding the Nacogdoches Power proposals in Exhibit C hereto includes confidential, proprietary, trade secret cost information for GREC LLC's proposal to GRU. Disclosure of such information would harm GREC LLC's competitive business interests. With respect to the information for the Covanta and Sterling Planet proposals, GRU is obliged to treat this information as trade secret information per the specifications of Covanta and Sterling Planet. GRU believes that, like GREC LLC, both Covanta and Sterling Planet are developing other biomass projects in Florida and elsewhere and that these companies are currently in discussions with other utilities regarding agreements to sell power from such facilities. Moreover, GRU believes that the subject information

for Covanta and Sterling Planet is not relevant to the scope of the issues prescribed for the supplemental hearing. The highlighted information regarding the Covanta and Sterling Planet proposals in Exhibit C hereto includes confidential, proprietary, trade secret cost information for Covanta's and Sterling Planet's proposals to GRU. Disclosure of such information would harm these entities' competitive business interests. GRU has asked Covanta and Sterling Planet for permission to release their confidential information (including both the information in the table and also their proposals, which were requested by Request To Produce No. 16), either for public disclosure or under cover of a request for confidential classification, but that permission has not been granted. (Although this should be obvious, the Petitioners state for the record that none of GREC LLC, Covanta, or Sterling Planet has seen the confidential information of any of the other proposers.)

5. The information for which confidentiality is sought through this Revised Request satisfies the requirements of Section 366.093, Florida Statutes, because:

- a. it is owned or controlled by GREC LLC, Covanta, and Sterling Planet (collectively the "Proposers"), respectively;
- b. it is intended to be and is treated by the Proposers, individually and respectively, as their

private, confidential, proprietary, trade secret
business information;

- c. it has not been disclosed except pursuant to confidentiality agreements or legal process;
- d. disclosure of the information would impair the competitive business interests of the Proposers by revealing to their business competitors their confidential pricing information, which would enable their business competitors to compete against the proposers to their detriment, including by enabling such competitors to "reverse engineer" proprietary pricing structure information that the Proposers developed for their proposals submitted to GRU;
- e. disclosure of the information would impair the Proposers' competitive business interests by revealing to other potential purchasers of power from projects being developed by the Proposers and their affiliates confidential pricing information which could be used to establish a "floor" from which they could negotiate against any of the respective Proposers; and
- f. disclosure of the information would impair the Proposers' competitive business interests by

revealing to potential vendors upon which the Proposers must rely for goods and services necessary to their performance under proposed power purchase agreements, information that would adversely impact the Proposers' ability to contract for such necessary goods and services on favorable terms.

Accordingly, the information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes, as well as protected from public disclosure by Section 815.045, Florida Statutes, and by Section 812.081(2), Florida Statutes.

6. Petitioners request that the information identified above be classified as "proprietary confidential business information" within the meaning of Section 366.093(3), Florida Statutes; that the information remain confidential for a period of at least 18 months as provided in Section 366.093(4), Florida Statutes; and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business.

WHEREFORE, for the foregoing reasons, Petitioners respectfully request that this Request for Confidential Classification be granted.

Respectfully submitted this 29th day of March, 2010.

A handwritten signature in black ink that reads "Robert Scheffel Wright". The signature is written in a cursive style with a horizontal line drawn across the middle of the name.

Roy C. Young
Florida Bar No. 098428
Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
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Tallahassee, Florida 32301
Phone: 850/222-7206
FAX: 850/561-6834

Attorneys for GREC LLC and GRU

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic mail and hand delivery (*) or U.S. Mail this 29th day of March, 2010, on the following:

Erik Sayler/Martha Carter Brown*
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Raymond O. Manasco, Jr.
Gainesville Regional Utilities
P.O. Box 147117
Station A-138
Gainesville, FL 32614-7117

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Gainesville, Florida 32608
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Attorney

EXHIBIT A

JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF INFORMATION

DOCUMENT	PAGE NO.	SECTION/DEFINITION/ PORTION OF PAGE	STATUTORY JUSTIFICATION
Petitioners' Response to Staff's Interrogatory No. 102	Page 45 of responses	Table contained in response to Staff's Interrogatory No. 102, on page 45 of the Petitioners' responses (the only page submitted with this Request for Confidential Classification)	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat.- trade secret information

EXHIBIT B

REDACTED RESPONSE TO STAFF'S INTERROGATORY NO. 102

(TWO COPIES)

**DETERMINATION OF NEED FOR GAINESVILLE RENEWABLE ENERGY CENTER,
PSC DOCKET NO. 090451-EM**

CONFIDENTIAL RESPONSE TO STAFF'S INTERROGATORY NO. 102

Comparison of GRU's Biomass Generation Alternatives									
Bidders		Covanta Energy				Nacogdoches			Sterling Planet
Proposal		50 MW PPA	50 MW EPC	58 MW PPA	58 MW EPC	50% of 100 MW	100% of 100 MW	100% of 100 MW (alt)	30 MW
Payments to Facility									
NPV of Payments	(\$000)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Levelized Cost	(\$/kWh)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Note: NPV calculated with 4.20% discount rate and 2009 base year.

**DETERMINATION OF NEED FOR GAINESVILLE RENEWABLE ENERGY CENTER,
PSC DOCKET NO. 090451-EM**

CONFIDENTIAL RESPONSE TO STAFF'S INTERROGATORY NO. 102

Comparison of GRU's Biomass Generation Alternatives									
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Payments to Facility									
NPV of Payments	(\$000)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Levelized Cost	(\$/kWh)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Note: NPV calculated with 4.20% discount rate and 2009 base year.

EXHIBIT D

**AFFIDAVITS OF JOSHUA H. LEVINE AND EDWARD J. REGAN
IN SUPPORT OF REQUEST FOR CONFIDENTIAL CLASSIFICATION**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition to Determine Need)
For the Gainesville Renewable Energy)
Center in Alachua County by Gainesville) DOCKET NO. 090451-EM
Regional Utilities and Gainesville)
Renewable Energy Center, LLC) FILED: March 29, 2010

STATE OF FLORIDA)
COUNTY OF ALACHUA)

AFFIDAVIT OF EDWARD J. REGAN

BEFORE ME, the undersigned authority, Edward J. Regan personally appeared who, being first duly sworn deposes and says:

- 1. My name is Edward J. Regan. I am currently employed by the City of Gainesville, Florida, in Gainesville Regional Utilities ("GRU"), which is the City department that operates the City's electric utility business and other utilities. I have personal knowledge of the matters stated in this Affidavit.
2. I have the reviewed the document and information contained in Exhibit C to Petitioners' Request for Confidential. The material identified as the NPV of Payments and Levelized Cost for the three named entities, Covanta, Nacogdoches, and Sterling Planet, was submitted by these three entities under claims of confidentiality in a competitive solicitation process conducted by GRU in order to obtain renewable energy for the City and the City's citizens. This information is considered by these entities to be their proprietary, confidential business information, including trade secret information. GRU has recognized the information as trade secret information and has treated, and continues to treat, the information as trade secret information; accordingly, GRU has not disclosed this information to the public. The three above-named entities assert that the disclosure of their trade secret information would impair their competitive interests in negotiations with potential purchasers of renewable energy from other projects being developed by the entities and would also impair their ability to contract for goods and services that are necessary to their business activities on favorable terms. From GRU's perspective, we treat the information as trade secret information because GRU believes it to be such, because we respect the representations of the entities, and because we understand that the public disclosure of trade secret information is prohibited by Florida law.
3. Consistent with the provisions of the Florida Administrative Code, I believe that the Florida Public Service Commission should protect the subject information from public disclosure by classifying it as confidential for a period of not less than eighteen (18) months. In addition, this information should be returned to the Petitioners as soon as the information is no longer necessary for the Commission to conduct its business, so that the Petitioners can continue to maintain the confidentiality of this information.

Affiant sayeth nothing further.

Edward J. Regan (handwritten signature)

SWORN TO AND SUBSCRIBED before me this 29th day of March, 2010, by Edward J. Regan, who is personally known to me.

Rita K Strother (handwritten signature)

Rita K. Strother (handwritten signature)



Notary Public
My Commission Expires: May 12, 2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition to Determine Need)
For the Gainesville Renewable Energy)
Center in Alachua County by Gainesville)
Regional Utilities and Gainesville)
Renewable Energy Center, LLC)

DOCKET NO. 090451-EM

FILED: March 29, 2010

STATE OF MASSACHUSETTS)
COUNTY OF SUFFOLK)

AFFIDAVIT OF JOSHUA H. LEVINE

BEFORE ME, the undersigned authority, Joshua H. Levine personally appeared who, being first duly sworn deposes and says:

1. My name is Joshua H. Levine. I am currently employed by American Renewables, LLC. I have personal knowledge of the matters stated in this Affidavit.

2. I have reviewed the document and information contained in Exhibit C to Petitioners' Request for Confidential Classification, only to the extent of reviewing the confidential, proprietary business information of American Renewables, LLC, and its affiliates Nacogdoches Power, LLC and Gainesville Renewable Energy Center, LLC (which is the successor entity to Nacogdoches Power, LLC), but I have not reviewed the confidential, proprietary business information of either Covanta or Sterling Planet that is apparently shown in the unredacted version of Exhibit C. The material identified as the NPV of Payments and Levelized Cost for Nacogdoches is proprietary, confidential business information, the disclosure of which would impair GREC LLC's competitive interests in its negotiations with potential purchasers of renewable energy from other projects being developed by GREC LLC and would also impair GREC LLC's ability to contract for goods and services that are necessary to GREC LLC's business on favorable terms. Disclosure of this information would directly impair the competitive business interests of GREC LLC. GREC LLC treats this information as private, confidential, proprietary business information, and GREC LLC has not disclosed the subject information except pursuant to confidentiality agreements that protect the information from public disclosure.

3. Consistent with the provisions of the Florida Administrative Code, the subject information should remain confidential for a period of not less than eighteen (18) months. In addition, this information should be returned to the Petitioners as soon as the information is no longer necessary for the Commission to conduct its business, so that the Petitioners can continue to maintain the confidentiality of this information.

Affiant sayeth nothing further.

Joshua H. Levine - 3/29/10

SWORN TO AND SUBSCRIBED before me this 29th day of March, 2010, by Joshua H. Levine, who is personally known to me.

Laura Martin

Laura Martin

Notary Public

My Commission Expires: July 4, 2014

STATE OF FLORIDA

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: March 29, 2010

TO: Robert Scheffel Wright, Esquire - Young Van Assenderp, P.A.

FROM: Marguerite H. Mclean, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 090451-EM or, if filed in an undocketed matter, concerning certain information provided in response to staff's interrogatory No. 102., and filed on behalf of Gru/Grec. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.

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