

Dorothy Menasco

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Monday, April 19, 2010 4:40 PM
To: Rich Zambo; James D. Beasley; Erik Sayler; Filings@psc.state.fl.us; Paula Brown; James Leary; Schef Wright
Subject: Electronic Filing - Docket 090109-EI
Attachments: 090109.E50.Obj2StaffPOD1.4-19-10.pdf

a. Person responsible for this electronic filing:

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b. 090109-EI

In Re: Petition of Tampa Electric Company For Approval of Solar Energy Power Purchase Agreement with Energy 5.0, LLC.

c. Document being filed on behalf of Energy 5.0, LLC.

d. There are a total of 4 pages.

e. The document attached for electronic filing is Energy 5.0 LLC's Objections to Staff's First Request for Production of Documents (No. 1).

(see attached file: 090109.E50.Obj2StaffPOD1.4-19-10.pdf)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
Secretary to Schef Wright
Phone: 850-222-7206
FAX: 850-561-6834

DOCUMENT NUMBER-DATE

03016 APR 19 09

FPSC-COMMISSION CLERK

4/20/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of solar energy
power purchase agreement between Tampa
Electric Company and Energy 5.0, LLC.

DOCKET NO. 090109-EI

DATED: APRIL 19, 2010

**ENERGY 5.0, LLC'S OBJECTIONS TO STAFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS TO ENERGY 5.0, LLC (NO. 1)**

Energy 5.0 LLC ("Energy 5.0" or "E50"), pursuant to Rule 28-106.206, Florida Administrative Code, Rule 1.350, Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, hereby submits its objections to the Commission Staff's First Request for Production of Documents (No. 1).

DOCUMENTS REQUESTED

1. Please provide any and all *pro forma* financial statement(s), or any similar financial statements, analyses, or studies, which Energy 5.0 prepared, developed, or caused to be developed for purposes of securing financing for the solar project which is the subject of the negotiated agreement between TECO and Energy 5.0. An electronic response would be preferred, if possible.

OBJECTIONS

As an initial matter, Energy 5.0, LLC will respond to this document production request by furnishing its internal *pro forma* financial statement for the Florida Solar 1 Project as set forth below. However, Energy 5.0 respectfully states these objections for the record of this proceeding.

First, Energy 5.0 did not prepare its *pro forma* financial statement, or any other *pro forma* financial statement, for the purpose of securing financing for the Florida Solar 1 Project. The financing entities with which Energy 5.0 has discussed the possibility of financing the Project

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have their own financial models, which those entities use to evaluate their decisions as to whether, and on what terms, they will finance the Project.

Second, Energy 5.0 continues to believe that Energy 5.0's own internal financial statements are not relevant to the issues in this docket. The suggested line of analysis addressing Energy 5.0's possible profits is not relevant in instances where a purchasing utility, Tampa Electric Company in this case, has conducted a competitive procurement process and obtained pricing that was below the market when it was selected (and which in fact remains generally below market, with some possible exceptions, even today).

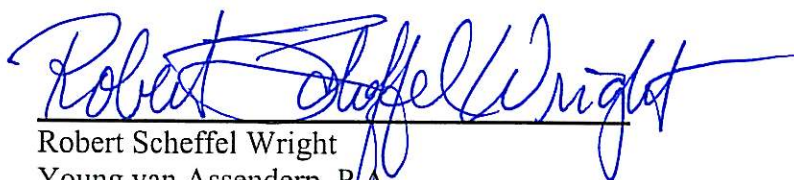
Moreover, Energy 5.0 believes that this line of analysis is not relevant to the issues in this docket because Energy 5.0 takes all development and operational risks associated with the Florida Solar 1 Projects, and accordingly, Energy 5.0's actual returns will be whatever they are, as dictated by the financial realities that the Project faces as it is developed, constructed, and brought into commercial operation. In other words, the relevant inquiry is whether the pricing of the solar power to be delivered to Tampa Electric, at a fixed price for the 25-year term of the Negotiated Contract, is reasonable to Tampa Electric based on what Tampa Electric knew, and on what it reasonably should have known, when it executed the Negotiated Contract, not on the degree of Energy 5.0's possible profitability.

INITIAL RESPONSE

Subject to a Notice of Intent to Request Confidential Classification that will be filed simultaneously with its response, Energy 5.0 will furnish a paper copy of its own internal *pro forma* financial statement, which Energy 5.0 used to determine whether to enter into the Negotiated Contract and to inform its pricing offer to Tampa Electric.

Pursuant to the Staff's clarification of its request, Energy 5.0 will also make available to the Commission Staff a working electronic version of the subject *pro forma* financial statement model, on a computer to be supplied by Energy 5.0, and with the presence and support of Mr. Gil A. Weisblum, Director of Finance and Strategy of Energy 5.0, at a mutually agreeable date and time.

Respectfully submitted this 19th day of April, 2010.

A handwritten signature in blue ink that reads "Robert Scheffel Wright". The signature is written in a cursive style with a long horizontal line extending to the right.

Robert Scheffel Wright
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Attorneys for Energy 5.0 LLC

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 19th day of April, 2010, on the following:

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