

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-10-0027-CFO-EM  
ISSUED: January 13, 2010

ORDER GRANTING GAINESVILLE REGIONAL UTILITIES  
AND GAINESVILLE RENEWABLE ENERGY CENTER, LLC'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NOS. 09703-09 and 10127-09),

On October 1 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), Gainesville Regional Utilities (GRU) and Gainesville Renewable Energy Center, LLC (GREC LLC) filed a Request for Confidential Classification of certain information contained within Exhibits BEK-2 through BEK-6 to the pre-filed direct testimony of witness Bradley E. Kushner (Document Nos. 09703-09 and 10127-09). This request was filed in Docket No. 090451-EM.

Request for Confidential Classification

Section 366.093(1), F.S., provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Paragraphs (d) and (e) of Section 366.093(3), F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

GRU and GREC LLC contend that portions of the information contained within the pre-filed direct testimony of witness Bradley E. Kushner and attached Exhibits BEK-2 through BEK-6, as more specifically described in the table in Attachment A, falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. GRU and GREC LLC state that this information is intended to be and is treated by GRU and GREC LLC as private and has not been publicly disclosed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

GRU and GREC LLC specifically allege that the confidential exhibits to Mr. Kushner's testimony include confidential, proprietary business information reflecting pricing under the Power Purchase Agreement for the Supply of Dependable Capacity, Energy, and Environmental Attributes From a Biomass-Fired Power Production Facility (the "PPA"). GRU and GREC LLC further allege the disclosure of this information 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 or services on favorable terms. GRU and GREC LLC contend that the information for which they seek confidential classification is confidential negotiated pricing information between GRU and GREC LLC under the PPA, and this information is protected from public disclosure under the confidentiality clause in the power purchase agreement between GRU and GREC LLC. GRU and GREC LLC further contend that disclosure of such information would harm GREC LLC's competitive business interests, as GREC LLC is developing other biomass projects and is currently in discussions with other utilities in the State of Florida regarding agreements to sell power from such facilities. GRU and GREC LLC maintain that the information for which confidential classification is sought consists of information either directly related to the cost of energy of the proposed Gainesville Renewable Energy Center biomass project (the "project") or information directly related to the cost of energy of alternatives to which the project was compared, the disclosure of which would allow for "backing into" the cost of the project using relatively simple calculations. Accordingly, GRU and GREC LLC contend the information is entitled to confidential classification pursuant to Sections 366.093(3)(d) and (e), Florida Statutes.

### Ruling

Upon review, it appears the information specified in the table in Attachment A satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and thus, shall be treated as confidential. The identified information constitutes "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Moreover, none of the documentation discussed herein contains any information regarding the compensation of GRU or GREC LLC executives. Thus, the information identified in Document Nos. 09703-09 and 10127-09, as specifically described in Attachment A, shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless GRU, GREC LLC, or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Gainesville Regional Utilities and Gainesville Renewable Energy Center, LLC's Request for Confidential Classification of information contained in Document Nos. 09703-09 and 10127-09, as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document Nos. 09703-09 and 10127-09 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 13th day of January, 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 25-22.060, 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.

ATTACHMENT A

EXHIBITS TO THE PRE-FILED DIRECT TESTIMONY  
OF WITNESS BRADLEY E. KUSHNER  
FILED SEPTEMBER 18, 2009

DOCUMENT DESCRIPTION	PAGE NUMBER(S)	LINE NUMBER(S)
Exhibit BEK-2	1 of 1	All of Table 1
Exhibit BEK-3	1 of 1	All of Table 1
Exhibit BEK-4	1 of 1	Entirety of Page
Exhibit BEK-5	1 of 1	All of Table 1
Exhibit BEK-6	1 through 118 of 118	All Lines of All Pages