

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-10-0135-PCO-EM
ISSUED: March 8, 2010

FIRST ORDER REVISING ORDER ESTABLISHING PROCEDURE

I. Case Background

On September 18, 2009, Gainesville Regional Utilities (GRU) and Gainesville Renewable Energy Center, LLC (GREC LLC) filed a joint petition for a determination of need for a proposed biomass-fired electric generating facility to be located at GRU's existing Deerhaven plant site in Alachua County, Florida, pursuant to section 403.519, Florida Statutes (F.S.), and Rule 25-22.081, Florida Administrative Code (F.A.C.). A public hearing on this matter was held in Gainesville, Florida, on December 9, 2009, and a formal administrative hearing was held on December 16, 2009, where the parties entered testimony and exhibits into the record.

At the Agenda Conference on February 9, 2010, the Commission considered the staff's recommendation regarding the petition for determination of need. At the Agenda Conference, GRU/GREC LLC requested that the Commission defer consideration of the recommendation and allow for a limited reopening of the record to receive supplemental testimony and exhibits. GRU/GREC LLC waived all statutory and rule time requirements related to its joint petition. A hearing date to receive the supplemental testimony and exhibits is scheduled for April 15, 2010. In approving the limited reopening of the record, the Commission did not add any additional issues for consideration.

On March 3, 2010, a Status Conference was held to establish the schedule for the entrance of additional evidence into the hearing record, and to consider any other matters that may aid in the efficient disposition of this case.

This Order is issued pursuant to the authority granted by Rule 28-106.211, F.A.C., which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case. Accordingly, the following procedures and controlling dates shall govern the activities for this limited reopening of the record.

II. Limited Purpose of Additional Hearing Date

The purpose of this additional hearing date is to allow for the limited reopening of the record of this proceeding in order to afford GRU/GREC LLC an opportunity to provide

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additional information to address questions raised by Commissioners at the February 9, 2010, Agenda Conference. The questions raised by the Commissioners centered upon fuel sustainability, studies, and contracts; the status of carbon regulation; and the risk mitigation efforts by GRU/GREC LLC to minimize rate impact to customers.

The Commission's decision to reopen the record is not intended to allow GRU/GREC LLC or the Intervenor to relitigate the case in chief or expand the issues of this case. GRU/GREC LLC shall limit its supplemental testimony and exhibits to areas agreed upon at the Status Conference and the Intervenor shall limit their testimony and exhibits to responding to GRU/GREC LLC's supplemental testimony and exhibits. Any expansion of the scope of this case beyond the areas discussed shall be subject to being struck from the supplemental record.

III. Notice and Public Information

Pursuant to Section 403.519, F.S., the applicant shall publish a notice of the additional proceeding in a newspaper of general circulation in each county in which the proposed biomass project will be located. That newspaper notice shall be published no later than March 24, 2010.

IV. List of Issues

The list of the issues which was identified in the Prehearing Order No. PSC-09-0814-PHO-EM, issued December 10, 2009, remains the same for this additional hearing date. The scope of this additional hearing shall be based upon those areas agreed upon at the Status Conference, unless modified by the Commission. In approving the limited reopening of the record, the Commission did not add any additional issues for consideration.

V. Discovery Procedures

In order to meet the expedited time tables involved with the additional hearing date, the following discovery procedures have been established:

- (1) For discovery related to supplemental direct testimony and exhibits filed by GRU/GREC LLC or Intervenor, discovery responses shall be served within 7 calendar days (inclusive of mailing) of receipt of the discovery request. For discovery related to rebuttal testimony and exhibits filed by GRU/GREC LLC, discovery responses shall be served within 7 calendar days (inclusive of mailing) of receipt of the discovery request. Discovery responses for interrogatories and requests for admission shall be served by electronic mail. One hard copy of the response shall also be served by hand-delivery, U.S. Mail, or overnight mail on the day that responses are served electronically. Discovery responses to requests for production shall be served electronically when possible, and include an index of the documents produced.

- (2) When a discovery request is served and the respondent intends to seek clarification of any portion of the discovery request, the respondent shall request such clarification within 5 days of service of the discovery request. Further, any specific objections to a discovery request shall be made within 7 days of service of the discovery request (5 days of service for rebuttal discovery). These procedures are intended to reduce delay in resolving discovery disputes.

VI. Prehearing Procedures

Except as otherwise modified by this Order, the prehearing procedures shall be the same for the April 5, 2010, Prehearing Conference, as set forth in Order No. PSC-09-0671-PCO-EM, issued October 8, 2009. With respect to identifying a position on the issues prior to the Prehearing Conference, the following procedures have been modified:

- (1) Position statements by GRU/GREC LLC and staff shall remain the same as in prior Prehearing Order.
- (2) Position statements by the Intervenors shall be “No position at this time.” The Intervenors do not waive the right to identify their positions in their post-hearing statement of the issues in their post-hearing briefs.

VII. Post-Hearing Procedures

If the Commission (or assigned panel) does not render a bench decision at the hearing, it may allow each party to file a post-hearing statement of issues and positions pursuant to the schedule set forth in Section IX of this Order. In such event, a summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position. However, the position must be reduced to no more than 50 words. If a post-hearing statement is required and a party fails to file in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time, unless modified by the Presiding Officer. Post-hearing briefs shall be based on the evidence in the final record.

VIII. Intervenors

Intervention in the proceeding shall be governed by Rule 25-22.039 F.A.C. Intervenors take the case as they find it. Intervenors' testimony and exhibits, if any, shall be limited to the substance of the GRU/GREC LLC's supplemental testimony and exhibits.

IX. Controlling Dates

The following dates have been established to govern the remaining activities of this case related to this additional hearing:

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| (1) GRU/GREC LLC's supplemental testimony and exhibits | March 15, 2010, 10:00 am |
| (2) Intervenors' testimony and exhibits responsive to GRU/GREC LLC's supplemental testimony and exhibits, if any | March 29, 2010, 10:00 am |
| (3) Prehearing Statements except as modified herein | April 2, 2010, 10:00 am |
| (4) GRU/GREC LLC's Rebuttal testimony and exhibits, if any | April 5, 2010, 10:00 am |
| (5) Prehearing Conference | April 5, 2010, 1:30 pm |
| (6) Discovery deadline | April 13, 2010 |
| (4) Hearing | April 15, 2010 |
| (5) Briefs | April 26, 2010 |

Based upon the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that the provisions of the Order No. PSC-09-0671-PCO-EM, issued October 8, 2009, are amended as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-09-0671-PCO-EM is reaffirmed in all other respects.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 8th day of March, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

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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.