

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-10-0184-CFO-EM
ISSUED: March 29, 2010

ORDER GRANTING GAINESVILLE REGIONAL UTILITIES
AND GAINESVILLE RENEWABLE ENERGY CENTER, LLC'S
REVISED REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 00366-10)

On October 23, 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gainesville Regional Utilities (GRU) and Gainesville Renewable Energy Center, LLC (GREC LLC) filed a Notice of Intent to Request Confidential Classification of certain information to be provided in its response to Staff's First Request for Production of Documents (PODs) No. 1, the Purchase Power Agreement ("PPA") between GRU and GREC LLC. On October 28, 2009, GRU and GREC LLC filed their Response to staff POD No. 1 (the PPA) (Document 10929-09), with a simultaneous Request for Confidential Classification of the POD response/PPA.

On January 14, 2010, GRU and GREC LLC filed a Revised Request for Confidential Classification for a substantially reduced portion, un-redacting all or part of approximately 475 lines of the information in Document No. 10929-09 for which confidential classification had previously been sought. An un-redacted copy of the POD response/PPA was attached to the Request as Exhibit C, and assigned Document No. 00366-10. Both requests were 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."

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLEAR

GRU and GREC LLC contend that portions of the information contained in their response to Staff's First Request for PODs No. 1, 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.

GRU and GREC LLC specifically allege that the response to Staff's POD No. 1 consists of the Power Purchase Agreement for the Supply of Dependable Capacity, Energy and Environmental Attributes from a Biomass-Fired Power Production Facility by and between Gainesville Renewable Energy Center, LLC and the city of Gainesville, Florida d/b/a Gainesville Regional Utilities, dated as of April 29, 2009. GRU and GREC LLC further allege the PPA includes confidential, proprietary 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 or services on favorable terms. GRU and GREC LLC contend that the information for which they seek confidential classification is confidential negotiated pricing, fuel procurement, operational, and other confidential 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, including projects currently being developed in Florida and other states. GRU and GREC LLC make special reference to the fact that the PPA includes unique, specifically negotiated business terms, operational terms, terms affecting business and operational provisions, financial provisions, and pricing structure that is in itself proprietary and constitutes a significant element of GREC LLC's competitive business. Accordingly, GRU and GREC LLC maintain certain information contained within the PPA is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), F.S.

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." Thus, the information identified in Document No. 00366-10, 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 No. 00366-10, as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document No. 00366-10 for which confidential classification has been granted, as described in Attachment A, 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 29th day of March, 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

GRU and GREC LLC Response to Staff POD No. 1	PAGE NO.	SECTION/LINE NUMBERS
Power Purchase Agreement for the Supply of Dependable Capacity, Energy and Environmental Attributes from a Biomass-Fired Power Production Facility by and between Gainesville Renewable Energy Center, LLC and the city of Gainesville, Florida d/b/a Gainesville Regional Utilities, dated as of April 29, 2009	3	§3.3 §4.1, parts of line 38
	4	§4.1, part of line 3 §4.2, part of line 20 §4.4.1, part of line 33, part of line 34 and all of lines 35-40
	5	§4.4.1, lines 1-8
	6	§4.7.1, part of line 27
	9	§8.2, lines 26, 27, 30, 31
	14	§12.3.1, part of line 33 §12.3.2, part of line 35
	15	§12.3.3, part of line 2, lines 3-8, part of line 9, lines 11, 12 §12.4.1, parts of lines 17, 18, 19, 20 §12.4.2, parts of lines 22, 23 and 26, all of lines 27-29 and part of line 30 §13.1, part of line 41
	16	§13.1, part of line 3 §13.2, parts of lines 11 and 13 §13.4, parts of lines 23, 25 and 28, all of lines 29-30, and part of line 31 §14.1, parts of lines 39, 40 and 41
	20	§17.2, parts of lines 6 and 8
	21	§18.1.4, parts of lines 8 and 9 §18.1.5, parts of lines 14 and 15 §18.1.6, part of line 20
	22	§18.4.2, parts of lines 20 and 21 §18.4.3, parts of lines 26 and 27
	27	§22.2, parts of lines 1 and 3, all of line 4
	30	§25.1.4, part of line 8
	33	§26.3, parts of lines 5 and 6 §27.1, part of line 16
	34	§27.2.5, all of lines 1-28 §27.2.6, all of lines 32-38
	35	§27.2.6, all of lines 1-7 §27.2.7, parts of lines 9, 13 §27.3, parts of lines 19, 20, 21 and all of lines 22-38
	Schedule 1 at i	Lines 4-7, 16-38
	Schedule 1 at ii	Lines 1-5, 8, part of line 23, lines 24-25,

	part of line 28, lines 29-30, 32-34
Schedule 1 at iii	Lines 1-5, part of line 11, lines 12-16, part of line 20, lines 25-26
Schedule 1 at v	Part of line 12, all of line 13
Schedule 1 at vi	Parts of lines 10, 11, 22, 31 and 32
Schedule 1 at vii	Part of line 1, all of lines 2-4
Schedule 1 at viii	Lines 3-7
Schedule 1 at ix	Part of line 16, all of lines 17-18, part of line 19, all of line 20, all of lines 29-34
Schedule 1 at x	Lines 5-11
Appendix III at xiv	All rows and columns, but not the row headings and column headings.
Appendix III at xv	Lines 5-21
Appendix V at xvii	Lines 4-43
Appendix V at xviii	Lines 1-17
Appendix VII at xxii	Parts of lines 7, 8, 18 and 19
Appendix VII at xxvi	Lines 3-26
Appendix IX at xxx	Parts of line 15, all of lines 16-38
Appendix IX at xxxi	Lines 1-13, parts of lines 16 and 17, all of lines 20-43
Appendix IX at xxxii	All lines.
Appendix IX at xxxiii	Lines 1-4, 7-16