

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition to Determine)
Need For the Gainesville Renewable)
Energy Center in Alachua County) DOCKET NO. 090451-EM
By Gainesville Regional Utilities)
and Gainesville Renewable Energy) FILED: April 16, 2010
Center, LLC.)
_____)

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GAINESVILLE REGIONAL UTILITIES' AND
GAINESVILLE RENEWABLE ENERGY CENTER, LLC'S
SUPPLEMENTAL REQUEST FOR CONFIDENTIAL CLASSIFICATION -
RESPONSE TO STAFF'S REQUEST
FOR PRODUCTION OF DOCUMENTS NO. 16

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 Supplemental Request for Confidential Classification of certain information provided in the supplemental, confidential response to Staff's Request for Production of Documents No. 16, which is being served contemporaneously with this Request. In support of this Request, Petitioners state:

1. On February 19, 2010, the Commission Staff served their Fourth Request for Production of Documents (Nos. 15-17) to Gainesville Renewable Energy Center, LLC. The Petitioners served their non-confidential responses to these Production Requests on March 1, 2010. The documents requested by Production Request No.

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16 include proposals submitted in response to GRU's 2007 request for proposals to supply GRU with renewable electrical energy generation. As stated in GRU's and GREC LLC's March 1 responses, three proposers, Covanta Energy, Sterling Planet, Inc., and Nacogdoches Power, LLC, the predecessor to GREC LLC, submitted proposals. GRU, as the recipient of the binding proposals, remains in possession of the unredacted versions of the binding proposals. However, pursuant to GRU's RFP, Covanta, Sterling Planet, and Nacogdoches Power designated the redacted material in their proposals as trade secret information, and this information is thus exempt from Chapter 119, Florida Statutes, by the provisions of Section 815.045, Florida Statutes. GRU has requested that Covanta and Sterling Planet agree to permit GRU to furnish the unredacted proposals to the Commission, either under cover of appropriate requests for confidential classification or without restriction, but GRU has not yet received such permission. GREC LLC, as the successor to Nacogdoches Power, is willing to submit its confidential proposal to the Commission pursuant to the protection afforded by this Request for Confidential Classification and the Commission's statutes and rules protecting such confidential, proprietary business information from public disclosure.

2. On April 5, 2010, GRU and GREC LLC submitted their initial Request for Confidential Classification - Response

Staff's Request for Production of Documents No. 16 (the "Initial Request for Confidential Classification"). The Initial Request for Confidential Classification sought confidential treatment for three oversized documents (Appendices 1A, 1B and 1C to Nacogdoches' proposal) responsive to Staff's request. GRU and GREC LLC inadvertently neglected to submit a second CD containing the remaining confidential portions of Nacogdoches' proposal. Please note, GRU and GREC LLC continue to seek confidential treatment for the documents included in the Initial Request for Confidential Treatment.

3. This Supplemental Request for Confidential Treatment seeks confidential treatment for the remaining confidential portions of Nacogdoches' proposal as described in Exhibit A hereto.

4. The information for which Petitioners seek confidential classification is detailed confidential information that was part of Nacogdoches Power's proposal to GRU. The subject information is the confidential, proprietary, business information of GREC LLC, the disclosure of which would cause harm to GREC LLC's competitive business interests. Additionally, the information is also regarded as trade secret information by GREC LLC, and accordingly, the public disclosure of the information is prohibited by Section 812.081(2), Florida Statutes.

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

- a. Exhibit A is a table that identifies the portions of the response to POD No. 16 for which Petitioners seek confidential classification and the specific basis for seeking confidential treatment;
- b. Exhibit B includes two copies of a version of the response to POD No. 16 for which Petitioners request confidential classification, redacted as follows. Within the proposal document itself, the specific information for which confidential treatment is requested has been blocked out by opaque marker. The confidential appendices are redacted in their entirety, so only the identifying cover sheets for the redacted appendices are being furnished as part of Exhibit B;
- c. Exhibit C is an unredacted copy of the response to POD No. 16 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 gray or highlighted in yellow; and
- d. Exhibit D is the affidavit of Joshua H. Levine of GREC LLC submitted in compliance with Rule 25-22.006(4)(d), F.A.C., and in support of the Petitioners' request.

6. The information described above and identified on Exhibit "A" qualifies for confidential classification under Section 366.093(3), Florida Statutes. In addition to the GREC Project, GREC LLC is developing other biomass projects in Florida and elsewhere, and GREC LLC is currently in discussions with other utilities in the State of Florida regarding agreements to sell power from such facilities. The highlighted information in the Nacogdoches Power proposal provided in response to POD No. 16 includes pricing and related confidential, proprietary, business information that, if disclosed, would harm GREC LLC's competitive business interests.

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

- a. it is owned and controlled by GREC LLC;
- b. it is intended to be and is treated by GREC LLC as its private, confidential, proprietary, trade secret business information;

- c. it has not been disclosed to anyone outside GREC LLC except pursuant to confidentiality agreements or legal process;
- d. disclosure of the information would impair the competitive business interests of GREC LLC by revealing to its business competitors GREC LLC's confidential pricing information, which would enable GREC LLC's business competitors to compete against GREC LLC to its detriment, including by enabling such competitors to know GREC LLC's proprietary pricing structure information that GREC LLC developed and negotiated specifically in the power purchase agreement between GREC LLC and GRU;
- e. disclosure of the information would impair GREC LLC's competitive business interests by revealing to other potential purchasers of power from projects being developed by GREC LLC and its affiliates confidential pricing information which could be used to establish a "floor" from which such other potential purchasers could negotiate against GREC LLC; and
- f. disclosure of the information would impair GREC LLC's competitive business interests by revealing,

to potential vendors upon which GREC LLC must rely for goods and services necessary to its performance under the power purchase agreement between GREC LLC and GRU, information that would adversely impact GREC LLC's 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.

8. 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 Supplemental Request for Confidential Classification be granted.

Respectfully submitted this 16th day of April, 2010.

A handwritten signature in black ink, appearing to read "Roy C. Young", is written over a horizontal line.

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Florida Bar No. 966721
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Attorneys for GREC LLC and GRU

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing, excluding the confidential document in Appendix B, has been served by electronic mail and hand delivery (*) or U.S. Mail this 16th day of April, 2010, on the following:

Erik Sayler/Martha Carter Brown*
Florida Public Service Commission
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Attorney

EXHIBIT A

JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF INFORMATION

DOCUMENT*	PAGE NO. or SECTION NO.	PORTION OF PAGE	STATUTORY JUSTIFICATION
Nacogdoches Power's Revised Response to GRU RFP	19 of 80	LL 33-38	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	20 of 80	Entire page, except the heading "Construction Phase"	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	21 of 80	LL 1-17	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	22 of 80 thru 30 of 80	Each page in its entirety	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	31 of 80	LL 1-11	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	36 of 80	LL 15-36	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	38 of 80	LL 3-13	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information

* All the confidential information in this request is contained in a document entitled "Nacogdoches Power, LLC, Revised Confidential Proposal for Renewable Energy Generation in response to Gainesville Regional Utilities, RFP 2007-135, Biomass Fueled Generation Facility" dated April 11, 2008 (hereinafter "Nacogdoches Power's Revised Response to GRU's RFP").

Nacogdoches Power's Revised Response to GRU RFP	39 of 80	LL 4-36	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	40 of 80	Entire page except the heading “Forest Residue”	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	41 of 80	Entire page except heading “Mill Residue”	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	42 of 80	Entire page except heading “Thinnings”	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	43 of 80	Entire page except heading “Urban Wood Waste”	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	44 of 80	LL 1-3, the entire table under the heading “Summary of Biomass Fuel Procurement Strategy” and LL 18-24	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	48 of 80	LL 12-19	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	54 of 80	LL 14-38	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information

Nacogdoches Power's Revised Response to GRU RFP	55 of 80	LL 1-10, and the entire table in the middle of the page	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	58 of 80	L 1-11	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	61 of 80	Entire page except the heading “Reliability of the Proposed Technology”	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	62 of 80	LL 1-7	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	67 of 80	Entire page except for the headings “Section 4- Economic Information” and “Pricing”	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	68 of 80	Entire page except for the headings “Fuel Adjustor” and “Fuel Cost Assumptions”	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	69 of 80	LL 1-6 and 8-18	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	70 of 80	LL 4-19, 21-34	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information

Nacogdoches Power's Revised Response to GRU RFP	71 of 80	Entire page	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 2: "Project Design Standards"	All of Appendix 2, consisting of 35 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 3: "Major Equipment Manufacturers and Supplies"	All of Appendix 3, consisting of 4 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 4: "Conceptual Water Balance"	All of Appendix 4, consisting of 2 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 5: "Representative Biomass Fuel Supply Contract"	All of Appendix 5, consisting of 13 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 6: "Fuel Analyses"	All of Appendix 6, consisting of 10 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 7: "Key One Line Diagram"	All of Appendix 7, consisting of 1 page	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 8: "Electrical Information"	All of Appendix 8, consisting of 8 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 9: "Project Schedule"	All of Appendix 9, consisting of 5 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information

Nacogdoches Power's Revised Response to GRU RFP	Appendix 11: "Project Team Diagrams"	All of Appendix 11, consisting of 3 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 12: "Letters of Intent with Project Partners"	All of Appendix 12, consisting of 8 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 13: "Project Financial Statements"	All of Appendix 13, consisting of 28 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 14: "Updated Societe Generale Letter"	All of Appendix 14, consisting of 2 pages	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information
Nacogdoches Power's Revised Response to GRU RFP	Appendix 15: (App. 15A-15H) "Partner Financial Statements"	All of Appendix 15H, consisting of 1 page	§ 366.093(3)(d)&(e), Fla. Stat. – confidential, proprietary business information §§ 812.081(2) & 815.045, Fla. Stat. – trade secret information

DOCKET 090451-EM

EXHIBIT D

AFFIDAVIT OF JOSHUA H. LEVINE

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: April 5, 2010

STATE OF FLORIDA)
COUNTY OF ALACHUA)

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 of certain designated information contained in the Petitioners' response to the Public Service Commission Staff's Request for Production of Documents No. 16. The subject Exhibit C is an unredacted copy of the Confidential Proposal for Renewable Energy Generation in response to Gainesville Regional Utilities RFP 2007-135, Biomass Fueled Generation Facility, submitted to GRU by Nacogdoches Power, LLC, which, as the predecessor entity to GREC LLC, submitted the proposal to GRU. The information designated as confidential in that Exhibit C is the proprietary, confidential business information, including trade secret information, of GREC LLC, and the disclosure of the designated confidential 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 its affiliates. The disclosure of the designated confidential information would also impair GREC LLC's ability to contract on favorable terms for goods and services that are necessary to GREC LLC's performance of its responsibilities under the power purchase and sale agreement between GREC LLC and GRU. 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.

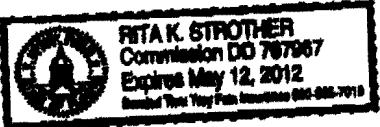
Affiant sayeth nothing further.

Joshua H. Levine

SWORN TO AND SUBSCRIBED before me this 31st day of March, 2010, by Joshua H. Levine, who is personally known to me.

Rita K. Strother

Rita K. Strother



Notary Public
My Commission Expires: May 12, 2012