

Please join us for the
GREC Purchase Forum
June 13th • 6:00 PM

At Pugh Hall, on the University of Florida Campus

Hosted by
The Gainesville Sun

BOB GRAHAM CENTER



The Gainesville Sun, WUFT and The Bob Graham Center are hosting a panel discussion on the ongoing negotiation between Gainesville Regional Utilities and the Gainesville Renewable Energy Center to buy the biomass power plant.



Ed Bielarski
General Manager of
Gainesville Regional Utilities



Darin Cook
Chair of the Utilities Advisory
Board and Co-Founder of
Infinite Energy



Harvey Budd
Gainesville City Commissioner



Nathan Crabbe
Opinion Editor for
The Gainesville Sun

The panel will include Ed Bielarski, general manager of Gainesville Regional Utilities; Darin Cook, chair of the Utilities Advisory Board and co-founder of Infinite Energy; and Harvey Budd, Gainesville city commissioner. The panel will be moderated by Sun opinion editor Nathan Crabbe.

Members of the public can email questions for the panel to grecquestions@gmail.com.

Falr, Inc.

From: <RJRODI@aol.com>
To: <falr@bellsouth.net>
Sent: Monday, March 27, 2017 12:37 PM
Subject: FYI --

From: Ray Washington
Sent: Saturday, March 25, 2017 10:19 PM
To: DL Utility Advisory Board ; citycomm ; davidarreola1@gmail.com
Subject: The sad GREC "vetting"

Members and Commissioners:

As Mr. Bielarski has stated several times since the so-called GREC "vetting" process, such as it has been, was asserted to have started in February that since taking over as GRU general manager in late June he attempted three times to engage the GREC energy speculators' front man James Gordon in discussions about a possible GRU buyout of the GREC contract and purchase of GREC facility.

In the first two instances, Mr. Gordon declined to engage. It was only last Fall, after an arbitrator ordered GREC to turn over plant operational records that GREC for four years has fought to prevent the City from having that Mr. Gordon finally agreed to discuss a purchase and sale arrangement -- provided that all discussions with GREC would be shrouded in the secrecy of a November nondisclosure agreement that would for all time prevent the disclosure to GRU customers and the Utility Advisory Board of matters revealed during negotiations.

Negotiations involving Mr. Bielarski and GREC representatives in November, December, January, February and part of March (and directly and indirectly involving City Attorney Nicolle Shalley beginning January 5) have been kept secret with one exception -- a December 1, 2016 written counter offer extended by Mr. Bielarski to Mr. Gordon offering to

purchase the GREC facility for \$575 million and numerous other concessions, including GREC paying all but \$2 million of the cost of altering the GREC plant to operate at 25 MW. I was able to obtain that document in January after absurd attempts by City Attorney Shalley to prevent access to it (attempts I referenced in a "Five Easy Pieces" email exchange with Ms. Shalley that I copied to you, that some of you may have read if you received it). As members of the titular advisory board on all things GRU, and as City Commissioner members who, for now, function as the GRU governing board, presumably this document has been provided to all of you.

I assume, given the irregular non-disclosure agreement drafted by GREC and signed by Mr. Bielarski, Ms. Shalley et. al., that you have not been made privy to the dozens of concessions Mr. Bielarski has verbally agreed to since December 1 -- as the GRU offered price climbed past \$600 million, \$625 million, \$650 million, \$675 million, \$700 million and \$725 million to finally reach Mr. Gordon's initial demand that the GREC speculators be paid at least \$750 million.

But I understand that you have been provided a copy of the February 16, 2017 version of the Memorandum of Agreement that included the original requirement that GRU take the lead in drafting the initial so-called "Definitive Agreement" -- a provision struck through after being negotiated away so that GREC can draft that initial agreement (one hopes with provisions not as irregular as those drafted into the GREC-drafted nondisclosure agreement signed by Mr. Bielarski, Ms. Shalley et. al.). My understanding is based on what I thought was Mr. Bielarski's Thursday assurance to Commissioner Budd that he had been provided with all redlines of the MOU. Whether all of you, or most of you, know or care about the course of negotiations that came prior to the first item listed on Mr. Bielarski's chart, I obviously don't know. An argument could be made that it doesn't matter, since at this point the "vetting" that you

will be allowed to do appears to be limited to either recommending approval of the signed March 22 MOU or recommending against it (in the case of UAB members). Obviously, if you approve the MOU you'll have the opportunity to see what the GREC speculators have to counter-offer by April 28, if Mayor Poe's fast track "vetting" schedule is adhered to, or by May 12, if four commissioners wish to take a more deliberative approach before giving their stamp of approval.

So it goes. Whenever you are able to learn what GREC's counter-offer will be (and that initial draft is properly considered a counter offer since the MOU describes itself as setting forth "the principal elements of an offer from GRU") the City will be at the start of the public portion of its FY 2018 budget process. This will not be a propitious time for the City to refuse GREC's revealed definitive agreement demands. As those of you know who have been provided and read copies of the GRU FY 2016 audited financial statements completed by Purvis Gray this month that will be taken up by the Mayor and Mayor ProTem at their audit and finance committee meeting on Monday, the declining trend of Electric Fund revenues, the increasing electric system expenditures and the problematic state of the balance sheet portend rate hikes beginning October 1 unless GREC's demands are adhered to and a definitive agreement is signed ASAP. As you governing board and advisory board members doubtlessly have been made aware, if GRU does not have the GREC arbitration disputes decided before the budget process ends, or unless GREC's definitive agreement demands are stamped with approval, it will be necessary to set aside about \$7.4 million as a contingency fund, which would completely deplete and render unavailable the electric system rate levelization fund. (As you also doubtlessly recall, by last fall the arbitration schedule had been laid out by the arbitrator and all the arbitration claims would have gone to hearing this month, but for the decision championed by the city attorney in the name of cost savings to put off the hearing in favor of summary

judgment motions. But that's another story.)

Given the City's past history with GREC -- and given the deal-making/litigious history of the GREC speculators' front man Mr. Gordon -- it has not been difficult to predict how this is all unfolded.

Below I have pasted an email I sent to Mr. Bielarski the month after he started as GRU GM and had announced his intention to begin negotiations with Mr. Gordon. The only thing that surprises me about my predictions, in retrospect, is that the imputed a level of reasonableness to Mr. Gordon that now seems naïve. With regard to a possible purchase agreement -- which I favored then and favor now, if it could be a reasonable agreement -- I wrote that I doubted that Mr. Gordon would be willing to negotiate anything unless the negotiation were to be "premised on a divestment of GREC's assets at net-present-value of the plant's projected income stream." As those of you who have read the original Goldman Sachs evaluation are aware, under even the most unlikely and optimistic assumptions about GREC's financial and future prospects -- low GREC cost of funds, and 100% availability payments from GRU every hour of every day for the next 27 years -- it would take less than \$720 million to pay GREC the net present value of the highest theoretically possible 27-year income stream (with GRU paying off all of GREC's debt, paying off all of GREC's interest rate swap agreements, and paying GREC the maximum amount it might have to reimburse the US government).

If you think that GREC's nonbinding agreement to *consider* GRU's offer (including Mr. Gordon's expressed willingness to "conceptually" consider an asset sale rather than a get out of jail free entity sale though he insists his continued discussions with the city attorney's office about an entity sale is "warranted") -- you haven't seen anything yet.

From: Ray Washington <raywashingtonlaw@gmail.com>

Date: July 23, 2015 at 1:14:44 PM EDT

To: bielarskiej <bielarskiej@gru.com>

Subject: YOUR OFFER TO NEGOTIATE WITH MR. GORDON

Reply-To: raywashingtonlaw@gmail.com

Ed,

Good luck in your attempt to negotiate with Jim Gordon over the GREC contract. Mr. Gordon in my view likely will be unwilling or unable, given GREC's ownership structure, to negotiate in any of the areas that you have suggested -- unless the negotiation is premised on increased early-years payments to GREC, or premised on a divestment of GREC's assets at net-present-value of the plant's projected income stream. I would like to be proven wrong in this view.

Meanwhile, I wanted to offer my assistance in your efforts if your efforts on behalf of GRU customers does bear some initial fruit. I have since 2011 acquired information about the GREC project that, if it remains good information, may be helpful in the event that Mr. Gordon indicates a real willingness to renegotiate the GREC contract in a way that decreases rather than increases GREC's net take from the project.

For instance, the original GREC financing package at the time of its notice to proceed on June 30, 2011 involved a \$363 million term loan facility and a \$30 million letter of credit facility. The debt was structured as a mini-perm, with a hypothetical long-term amortization and a balloon payment at construction plus 7 years. This debt was priced at between 275 to 300 basis points above the base rate.

Although I am not sure what the base rate was, based on documents left behind by GRU General Manager Mr. Hunzinger (and in the possession of the City Attorney) it appears that the GREC's bank debt interest rate was expected to be about 7.5% in late 2010, suggesting an expected base rate at that time of 4.5% to 4.75%. It was also suggested in those documents that the double-digit cost-of-money attributed to GREC by GRU Assistant General Managers Mr. Regan and Mr. Stanton was the result of classifying GREC shareholders as equity investors and assigning to those equity investors an expected return of 20%.

3/27/2017

Although the terms of the deal as outlined above have not been widely publicized (though they are presumably known to Mr. Stanton), you are probably aware that the debt lenders were:

- Bank of Tokyo Mitsubishi UFJ
- Crédit Agricole CIB
- ING Capital
- Natixis
- Rabobank
- Société Générale

The above consortium is the same consortium that Gordon's group had unsuccessfully attempted to use to secure debt funding for the similar Nacogdoches County, Texas biomass project in 2008 and 2009.

As you probably know, Gordon's group in late 2009 was forced to abandon the Nacogoches project essentially for \$31 million (described by project successor Southern Power as essentially a finders fee paid on top of \$50 million in reimburse out of pocket expenditures) just as, in my view, Gordon's group would have had to abandon the Gainesville project but for the March 16, 2011 and June 30, 2011 amendments to the PPA and the accompanying consents and assignments to the lenders (the full extent of which consents and assignments you cannot know unless and until you are provided with copies of the documents referenced in the June 30, 2011 "Consent and Agreement" document).

It is possible, but not likely in my view, that the loan package put together by the above referenced consortium has been supplemented by a mezzanine debt tranche, which was GREC's originally stated intention.

What I have been able to determine with certainty is that the entire amount of the nearly \$117 million Section 1603 grant in April 2014 was paid over to the GREC's lenders, suggesting that the base loan if still in place has been reduced to no more than \$246 million. To the extent that GREC's performance obligations to GRU have been reduce since the plant reached commercial operation, it also seems likely GREC's original \$30 million letter of credit also has been reduced.

It is not easily determinable the actual level of equity GREC's owners have been put into the GREC project. Based on GREC having claimed in 2011 a 76:24 debt-to-equity gearing equity investment would be about \$123 million.

However, documents that emerged during the 2013

"arbitration" proceedings (and that are in the possession of Utility Attorney Ms. McNeill) reflect that at the time financing was secured as a result of the "Consent and Agreement" Ms. McNeill worked on during the spring of 2011, most of what was being claimed as equity at that time was "equity commitment" and not actual paid-in equity.

In any event, this sort of information may be useful to you in the event, however, unlikely, that Mr. Gordon proves willing and able to engage in negotiation of the sort that could actually help GRU and its customers. If I can be of assistance in that event, please let me know.

Ray Washington mobile

3/27/2017

Why We Should Not Buy the Biomass Plant

Ed Bielarski, in a series of secret meetings with our City Commissioners around December 24, 2015, has, without prior public discussion:

1. Abandoned a contractual claim for \$50,000/month for 29 years: \$17,400,000
2. Decided it is best to buy the plant

The legal fees for the "dollar-to-Euro exchange rate" arbitration were capped at \$100,000. Bielarski claims "financial costs could outweigh the benefits". GREC expressly stated it did not waive its right to challenge the GRU decision not to take GREC electricity, or anything else, later on.

Bielarski falsely claims "the largest opportunity for savings with GREC is buying the facility".

By discarding the challenge to an interpretation of our repeatedly amended GREC contract by Mr. Hunzinger, Bielarski is signaling that there will be no forensic audit to find conflicts of interest that would allow us to void the contract, and no challenge to numerous amendments and gifts unsupported by requisite consideration for the ratepayer. Bielarski does what our contract does not – he waives our sovereign immunity.

Bielarski guarantees that GREC will demand an outrageous price for a plant that provides unnecessary base load power at a ridiculously high price. This occurs while our bond rating deteriorates, interest rates rise, we have a flat fuel adjustment charge while everyone else's is in freefall, and merely a fraction of ours.

We have no contractual right to buy the plant for "fair market value" until year 29. GREC faces a balloon mortgage in 2019.

Mr Bielarski has decided to pursue a path that failed previously and cost us \$2,000,000 in legal fees that will guarantee sky high GRU bills for decades, or even bankruptcy. GREC would be prepaid its ill gotten gains. Bielarski is paid \$300,000, per year and pads GRU with his cronies.

This is a disaster!

Why buy biomass plant?

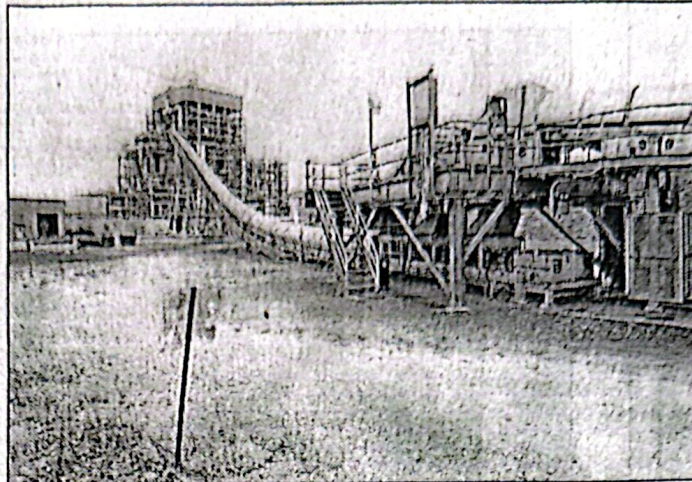
By Edward Bielarski
Special to The Sun

In the midst of contract disputes, legal proceedings and perceived overall poor relations, the discussion about Gainesville Regional Utilities possibly purchasing the Gainesville Renewable Energy Center might have come as a surprise to many. As GRU's general manager, I would like to offer an explanation of our reasoning.

In my attempt to lead GRU toward a competitive business model, my focus is on protecting the interests of our stakeholders. Because GREC and GRU's business interests are not perfectly aligned, disputes naturally occur.

In addition to our dispute over the interpretation of the dollar-to-Euro exchange rate, GREC has objected to GRU keeping them in cold standby and GRU's reduction of availability payments during GREC's ramp up to minimum load. However, GREC has only demanded arbitration on the dollar-to-Euro exchange rate. To put all of this into perspective, GRU is saving almost \$50,000 a day under these other disputes, as compared to a cost of \$50,000 a month with the Dollar-to-euro exchange rate issue.

I decided to forego arbitration on the dollar-to-Euro exchange rate dispute after determining that GRU's chances of success were less likely than first anticipated and the financial costs could



The Gainesville Renewable Energy Center. FILE

outweigh the benefits.

Rather than continuing to pursue such a claim, which might not be in the best interest of our customers, I determined it would be more prudent to explore the largest opportunity for savings with GREC: buying the facility.

After six months on the job, I have reached the following assessment of the biomass plant and its contract with GRU:

A 100-megawatt base load generating facility, such as GREC, does not fit GRU's load profile and is not an optimal generating asset for GRU. In fact, depending on conditions, it requires GREC 23 to 32 hours to return to minimum load from cold standby. In a system emergency, GREC would not be able to respond quickly enough for GRU's reliability needs.

A more optimal base load level for GRU would be between 25 and 50 megawatts, with another 50 to 75 megawatts coming from other peaking units. Even with the GREC serving load, GRU

may need to add capacity based on the need for reliability in the near future.

The current contract is charging GRU above-market prices for two services. The first, known as the dependable capacity charge, is a fixed charge for being ready to deliver up to 102.5 megawatts. At approximately \$70 million a year, it is around \$64 million more than the market rate for such services. The second charge is a variable charge for the actual delivery of electricity, approximately \$40 per megawatt. It is also currently out of market, which is why GREC remains in cold standby.

The GREC contract doesn't allow for much operating flexibility, such as ramping the plant down to less than 70 megawatts of generation. This inflexibility creates additional costs at GRU's own generation facilities.

As challenging as the aforementioned hurdles appear to be, buying the plant would allow GRU to operate GREC in a manner that optimizes

our expenses and in turn creates savings for our customers. The purchase would allow us to eliminate the dependable capacity charges, operate using our own skilled power plant employees, and maintain the operating hedge in GRU's fleet against fossil fuel prices and carbon taxation.

GRU would not buy the GREC facility unless it provided a substantial and measurable savings to our customers as compared to the current GREC contract.

As a municipal utility, GRU has the ability to borrow funds at tax-exempt rates. On the other hand, GREC cannot access the tax-exempt market and must incur a higher borrowing cost. That difference, known in the financial community as arbitrage, creates a savings, which may facilitate GRU's ability to purchase the plant.

At this point, the purchase is only a possibility dependent on discussions with GREC, generating cost savings to our customers and a return to GREC's investors. If and when we can reach an agreement, it will have to be vetted and approved by the City Commission.

Rest assured that I will only bring options to the City Commission that make financial sense to GRU customers.

— Edward Bielarski Jr.
is general manager of Gainesville Regional Utilities.

SPEAKING OUT

Why buy biomass plant?

By Edward Bielarski
Special to The Sun

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is general manager of
Gainesville Regional
Utilities



Akerman LLP
Post Office Box 4906
Orlando, FL 32802
Tel: 407.254.2305
Fax: 407.254.3408

Invoice Date: December 09, 2015
Invoice No.: 9082908

VIA E-MAIL: ACCOUNTSPAYABLE@GRU.COM
PO BOX 147118, STATION A27
GAINESVILLE, FL 32614-7118

Client Name: CITY OF GAINESVILLE, FLORIDA, D/B/A
GAINESVILLE
Matter Name: GREC DISPUTE RE DOLLARS/EUROS
PROVISION
Matter Number: 0306324

Claim No: PO# 4510029309

For professional services rendered through November 30, 2015 as summarized below:

Services	\$6,032.00
Disbursements	<u>\$244.38</u>
TOTAL THIS INVOICE	\$6,276.38

PREVIOUS BALANCE	15,030.00
(Includes payments received through 12/09/15)	
TOTAL AMOUNT DUE	<u>\$21,306.38</u>

*To ensure proper credit to the above account, please indicate invoice no. 9082908
Return remittance sheet with payment in US funds.*

Wired funds accepted:
Akerman LLP Operating Account
c/o SunTrust Bank, Atlanta, GA
ABA Number: 061000104
Account Number: 0215-252207533
Swift code SNTRUS3A (For International Wires Only)
IRS EIN 59-3117860

GREC BIOMASS CONTRACT

1) COLD STANDBY: \$6,000,000/mo. \$8,333.00/hr

2) "SAVINGS" OVER MINIMUM PURCHASE

of 70 mwh From GREC \$50,000/day \$2083.33/hr

Notes: a. Item #2 Is Not Really "Savings" because
GRU will either generate or purchase
power at some price presumably below
GREC's variable cost for a minimum of
70 mwh

b. GREC has preserved its right to challenge
GRU decision not to take its power in the
future

3) CONSTRUCTION COST ADJUSTOR: \$50,000/mo. \$69.44/hr

This totals \$17,400,000 over the life of the
remaining contract. Ackerman found GRU
could go more than 12 months back. GRU's
Claim was for \$985,000

AKERMAN LAW FIRM

- Recoupment of GREC Fraudulent Overcharges
- Dispute "Equitable" Adjustment
- Recoupment of Navigant Fees
 - Failed to Disclose Conflict of Interest
 - Failed to Notice GREC Overcharges
 - Practiced Law Without a License
- Recoupment of Consultant Fees that Supported GREC Fraudulent Overcharges
- Coordinate with New City Auditor to Conduct a Well-Designed Forensic Audit to Uncover Any City Commissioner Conflicts of Interest with GREC to