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IN THE CIRCUIT COURT OF THE
EIGHTH JUDICIAL CIRCUIT, IN
AND FOR ALACHUA COUNTY, FLORIDA

CASE NO. 01-2012-CA-001346
DIVISION: J

GAINESVILLE CITIZENS CARE, INC.,

Plaintiff,

vs.

CITY OF GAINESVILLE d/b/a
GAINESVILLE REGIONAL UTILITIES,

Defendant,

and

GAINESVILLE RENEWABLE ENERGY
CENTER, LLC,

Intervenor.

J.K. "BUDDY" IRBY
CLERK OF COURTS
ALACHUA COUNTY, FL.

2012 NOV 30 PM 4:04

FILED
OK 61

DEPOSITION OF: JOHN STANTON
DATE: November 7, 2012
TIME: 9:30 a.m. - 12:11 p.m.
PLACE: 408 W. University Avenue
Suite 505
Gainesville, Florida 32601
REPORTED BY: Shawn E. Fleck, RPR,
Court Reporter, Notary Public

Case: 2012 CA 001346



00058640332
Dkt: DE11-R

EXHIBIT

tabbies

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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 MARCY I. LAHART, P.A. 3 BY: MARCY I. LAHART, ESQUIRE 4 4804 S.W. 45th Street 5 Gainesville, FL 32608 6 Attorney for Plaintiff 7 CITY OF GAINESVILLE 8 OFFICE OF THE CITY ATTORNEY 9 BY: ELIZABETH WARATUKE, ACA 10 P.O. Box 490, Station 46 11 Gainesville, Florida 32627 12 Attorney for City of Gainesville 13 14 ACKERMAN SENTERFITT 15 BY: TIMOTHY MCDERMOTT, ESQUIRE 16 50 North Laura Street, Suite 310 17 Jacksonville, Florida 32202 18 Co-Counsel for City of Gainesville 19 20 GARDNER, BIST, WIENER, WADSWORTH, 21 BOWDEN, BUSH, DEE, LAVIA & WRIGHT, P.A. 22 BY: DAVID S. DEE, ESQUIRE 23 1300 Thomaswood Drive 24 Tallahassee, Florida 32308 25 Attorney for Gainesville Renewable Energy Center, LLC</p> <p>ALSO PRESENT: BOB HUNZINGER JO BEATTY</p>	<p style="text-align: right;">Page 4</p> <p>1 THEREUPON: 2 JOHN STANTON 3 was called as a witness and, having been first duly sworn, 4 was examined and testified as follows: 5 DIRECT EXAMINATION 6 BY MS. LAHART: 7 Q. Good morning. Would you state your name for the 8 record? 9 A. John Stanton. 10 Q. Mr. Stanton, how are you employed? 11 A. I'm the assistant general manager of energy supply 12 for Gainesville Regional Utilities. 13 Q. I have a suspicion that this is not the first time 14 you've given a deposition. Am I correct? 15 A. You are correct. 16 Q. Well, nonetheless, I'm going to repeat some things 17 that you've probably heard every time you give a deposition. 18 This is Shawn Fleck, our court reporter. She's 19 going to be writing down my questions and also your answers. 20 Please try and let me finish my question before you start to 21 answer, because it's very hard for her to take down what two 22 people are saying at one time. 23 If you don't understand one of my questions, it 24 probably means that I didn't ask it well, and ask me to 25 rephrase, and I will be happy to do so.</p>
<p style="text-align: right;">Page 3</p> <p>1 I-N-D-E-X 2 Witness Direct Cross Redirect Recross 3 JOHN STANTON 4 BY MS. LAHART: 4 5 BY MR. DEE: 6 7 E-X-H-I-B-I-T-S 8 9 Plaintiffs for Identification Page 10 Exhibit Number 1.....10 11 Exhibit Number 2.....26 12 Exhibit Number 3.....33 13 Exhibit Number 4.....35 14 Exhibit Number 5.....42 15 Exhibit Number 6.....46 16 Exhibit Number 7.....52 17 Exhibit Number 8.....54 18 Exhibit Number 9.....56 19 Exhibit Number 10.....57 20 Exhibit Number 11.....59 21 Exhibit Number 12.....60 22 Exhibit Number 13.....61 23 Exhibit Number 14.....62 24 Exhibit Number 15.....63 25 Exhibit Number 16.....64 Exhibit Number 17.....66 Exhibit Number 18.....67 Exhibit Number 19.....76 Exhibit Number 20.....78 Exhibit Number 21.....80</p> <p>Defendant's for Identification Page (NONE MARKED)</p>	<p style="text-align: right;">Page 5</p> <p>1 Try to say yes or no, as opposed to uh-huh and 2 uh-uh, because they look an awful lot alike on a deposition 3 transcript. 4 So I'd like to start by asking you about your 5 educational background post high school. Did you go to 6 college? 7 A. I did. 8 Q. Where did you go? What did you study? 9 A. I went to the University of Florida, studied 10 engineering. I went to Nova Southeast, studied business. 11 Q. When did you graduate? 12 A. I graduated from University of Florida in 1971, I 13 guess it was, or actually it was '70; and 1989, as I recall. 14 from Nova. 15 Q. Did you graduate with a master's -- 16 A. Yes. 17 Q. -- from Nova? 18 And what was your first professional employment 19 after graduate school? 20 A. I cannot answer that question as asked. 21 Q. Okay. Why not? 22 A. I was employed before, during, and after graduate 23 school by the same employer. 24 Q. Who was that? 25 A. Florida Power & Light Company.</p>

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<p style="text-align: right;">Page 6</p> <p>1 Q. I've heard of them. 2 What did you do for them? 3 A. I was involved in the operation, maintenance, 4 startup, and construction of power generating facilities. 5 Q. What years did you work for FPL? 6 A. I worked for FPL from 1967 through 19 -- through 7 2002. 8 Q. Did you say 1967? 9 A. 1967 to 2002. 10 Q. Was your next job with GRU? 11 A. No. 12 Q. Who was your next job with? 13 A. I was an independent consultant. 14 Q. How long were you an independent consultant? 15 A. Approximately five years. 16 Q. What was the name of your consulting company? 17 A. John Stanton Consulting. 18 Q. Clever. 19 Where were you headquartered? 20 A. Fort Lauderdale, Florida. 21 Q. Who were your clients? 22 A. Novo Nordisk, and the American Pharmaceutical 23 Partners, and I also subcontracted to Sigma Business 24 Solutions. 25 Q. What sorts of matters did you consult upon?</p>	<p style="text-align: right;">Page 8</p> <p>1 proficiency development. 2 Q. Happy you moved to Gainesville from South Florida? 3 A. I'm sorry? 4 Q. Are you happy you moved to Gainesville from South 5 Florida? 6 A. Well, I keep dual residences. 7 Q. Really? 8 A. So I am happy to be in Gainesville. I have family 9 here, and I have a wonderful job here. 10 Q. And you still have a home in Fort Lauderdale? 11 A. I do. 12 Q. All right. You mentioned four things, and I only 13 managed to write down three. Production -- 14 A. Production. Production assurance support, and then 15 fuels slash business services slash generation dispatch, and 16 the fourth area is job knowledge in proficiency development. 17 Q. Mr. Stanton, do you have a cell phone that is 18 strictly used for GRU business? 19 A. No. 20 Q. Do you have a personal phone that you use for GRU 21 business? 22 A. Yes. 23 Q. Do you get reimbursed by the City of Gainesville 24 for any of those expenses? 25 A. I get a stipend.</p>
<p style="text-align: right;">Page 7</p> <p>1 A. I consulted in the area of management consulting 2 and Six Sigma as applied to process businesses and 3 manufacturing. 4 Q. You said management consulting. What do you mean 5 by that? 6 A. By that I mean advising members of senior 7 management at companies, ways to enhance their business. 8 Q. Ways to enhance their business economically? 9 A. Economically; environmentally. 10 Q. So if I can do some basic math, you were a 11 consultant until about 2007? 12 A. Into 2008. Into early 2008. 13 Q. And what happened in 2008? 14 A. In 2008, a headhunter contacted me about an opening 15 at GRU, the one that I eventually accepted. 16 Q. Are you in the same position with GRU that you 17 accepted back in 2008? 18 A. I am. 19 Q. And what is that position? 20 A. Assistant general manager of energy supply. 21 Q. What are your responsibilities as the assistant 22 general manager of energy supply? 23 A. Well, basically four areas. Production, production 24 assurance support, and then fuel slash business services 25 slash generation dispatch, and then a job knowledge in</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. How much of a stipend? 2 A. I don't know. I knew four years ago, but I don't 3 recall. 4 Q. Do you mind telling me what that phone number is? 5 A. It's (954) 646-1639. 6 Q. 1639. 7 A. (Simultaneous conversation) 1639. 8 Q. Who is the carrier? 9 A. AT&T, disappointingly so, sometimes. 10 Q. Do you have a private e-mail account? 11 A. I do. 12 Q. How many? 13 A. I have three I can think of. 14 Q. Have you ever used any of those private e-mail 15 accounts for GRU business? 16 A. No. 17 Q. Mr. Stanton, unlike most of the people in this 18 room, I am fairly new to the biomass plant project, and 19 although I have been a lawyer for 20 years, I am certainly 20 not well versed in contract law, although I bet that I've 21 done more parrot custody cases than any other person in this 22 room. 23 A. Parent custody? 24 Q. Parrot. Parrot custody. In fact, I've done more 25 pet custody cases --</p>

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<p style="text-align: right;">Page 10</p> <p>1 A. Oh, I see. I'm sorry.</p> <p>2 Q. -- than any of the attorneys in this room.</p> <p>3 I am going to hand you what we'll mark as</p> <p>4 Petitioner's Exhibit 1. I think you all have seen this</p> <p>5 before, but it's -- the cover page is a March 30th, 2011,</p> <p>6 letter from Ray Manasco to John LaVia. Did I say that right?</p> <p>7 MR. DEE: LaVia.</p> <p>8 (Thereupon, Plaintiff's Exhibit Number 1 was marked</p> <p>9 for Identification.)</p> <p>10 BY MS. LAHART:</p> <p>11 Q. LaVia. Are you familiar with this document?</p> <p>12 A. Yes.</p> <p>13 Q. Can you tell me what your role in negotiating this</p> <p>14 document was?</p> <p>15 A. I was a member of a negotiating team.</p> <p>16 Q. Could you -- if I gave you a highlighter, would you</p> <p>17 be able to go through that document, and tell me which of the</p> <p>18 sections of it you had input on?</p> <p>19 A. Yes, and I would be able to do that even if you</p> <p>20 didn't give me a highlighter.</p> <p>21 Q. All right. I'm going to give you a highlighter,</p> <p>22 and I'm going to ask you if you would, please, do that for</p> <p>23 me.</p> <p>24 A. (Indicating.)</p> <p>25 Q. Thank you.</p>	<p style="text-align: right;">Page 12</p> <p>1 Nacogdoches was accepted by the City of -- the city</p> <p>2 commission, how did the negotiations get started? Who got</p> <p>3 the ball rolling?</p> <p>4 A. Mr. Hunzinger.</p> <p>5 Q. What do you mean?</p> <p>6 A. Mr. Hunzinger is the general manager. Set the</p> <p>7 framework. Called people together. Established a team,</p> <p>8 reporting to himself. And some general guidelines.</p> <p>9 Q. What were the guidelines?</p> <p>10 A. I misspoke there. I meant to say timelines.</p> <p>11 Q. Timelines.</p> <p>12 A. Timelines.</p> <p>13 Q. So there were no guidelines?</p> <p>14 A. At the -- if I recall your question about how it</p> <p>15 got started, the guidelines had not yet been developed, other</p> <p>16 than the broad-base guideline of the members of the</p> <p>17 negotiating team would recommend to Mr. Hunzinger, and he</p> <p>18 would decide.</p> <p>19 Q. Were those guidelines ever put in writing, that you</p> <p>20 know of?</p> <p>21 A. I cannot recall.</p> <p>22 Q. What happened next?</p> <p>23 A. What happened next after exactly when?</p> <p>24 Q. After Mr. Hunzinger got the ball rolling.</p> <p>25 A. The next significant event I recall was a large</p>
<p style="text-align: right;">Page 11</p> <p>1 Mr. Stanton, were there particular subjects that</p> <p>2 you took the lead on in negotiating this agreement?</p> <p>3 A. I think there were areas where I, perhaps, offered</p> <p>4 more recommendations than others.</p> <p>5 Q. Okay. And what were those areas?</p> <p>6 A. The areas of operations, maintenance, construction,</p> <p>7 and startup.</p> <p>8 Q. You said that you were a member of a negotiating</p> <p>9 team. Tell me a little bit more about that.</p> <p>10 A. Could you be more specific? What would you like to</p> <p>11 know?</p> <p>12 Q. How did the negotiations take place? Who else was</p> <p>13 on the team?</p> <p>14 A. The team members were myself, Ed Regan, Rick</p> <p>15 Bachmeier, Skip Manasco. Of course our leader of the team</p> <p>16 was Bob Hunzinger, who made the decisions. And I'm trying to</p> <p>17 recall other members. I know I'm shortchanging somebody</p> <p>18 right now.</p> <p>19 Q. How about Mr. Cole?</p> <p>20 A. Oh. I was thinking outside. Yes. John Cole.</p> <p>21 Well, he was team consultant, the attorney to it.</p> <p>22 Q. Anybody else you can think of?</p> <p>23 A. Again, I'm probably shortchanging somebody, but not</p> <p>24 at the moment.</p> <p>25 Q. Okay. After the request for proposal submitted by</p>	<p style="text-align: right;">Page 13</p> <p>1 meeting at the Thomas Center. A -- generally a kickoff</p> <p>2 meeting.</p> <p>3 Q. And was that -- who was there?</p> <p>4 A. Who wasn't there.</p> <p>5 Q. Was it just GRU folks, or were there people from</p> <p>6 Nacogdoches as well?</p> <p>7 A. There were people from Nacogdoches as well.</p> <p>8 Q. And what happened at that meeting?</p> <p>9 A. It was a general discussion of the aspects of the</p> <p>10 project.</p> <p>11 Q. Did you come away from that meeting with any</p> <p>12 particular assignments, do you recall?</p> <p>13 A. I do not recall any.</p> <p>14 Q. Okay. Do you keep notes regarding those sorts of</p> <p>15 meetings?</p> <p>16 A. I do.</p> <p>17 Q. In what format do you keep them?</p> <p>18 A. I keep them predominantly -- 99 percent of my notes</p> <p>19 on anything are in a daily-minder-type journal diary.</p> <p>20 Q. The first meeting was at the Thomas Center. Do you</p> <p>21 recall where the next meeting was?</p> <p>22 A. I believe it was in the general manager's</p> <p>23 conference room, but I can't say with certainty.</p> <p>24 Q. That would be at GRU?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q. Do you recall the date of that meeting?</p> <p>2 A. No.</p> <p>3 Q. Do you recall the date of the meeting at the Thomas</p> <p>4 Center?</p> <p>5 A. I know it was in June, because it was recently --</p> <p>6 just after I accepted employment with GRU. So it was -- so</p> <p>7 the next meeting would have been, I think, within some weeks</p> <p>8 of that. So in the June, July time frame.</p> <p>9 Q. Were you brought on board by GRU specifically to</p> <p>10 work on this biomass project?</p> <p>11 A. No.</p> <p>12 Q. One of the portions of the power purchase agreement</p> <p>13 that you've highlighted has to do with metering. Can you</p> <p>14 explain to me what that provision is about?</p> <p>15 MS. WARATUKE: Marcy, can I just ask you a quick</p> <p>16 question so I'm on the same page with you? Can I see</p> <p>17 which sections he's highlighted so I know what --</p> <p>18 MS. LAHART: Sure.</p> <p>19 MS. WARATUKE: Thanks.</p> <p>20 MS. LAHART: Want to highlight it on your copy?</p> <p>21 MS. WARATUKE: Thank you.</p> <p>22 MS. LAHART: No problem.</p> <p>23 MR. DEE: If he could just, like, read into the</p> <p>24 record what he highlighted, then we would all know at</p> <p>25 the same time. That might make it --</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Uh-huh.</p> <p>2 Q. Can you explain to me what those provisions relate</p> <p>3 to?</p> <p>4 A. Well, metering, in general, relates to being able</p> <p>5 to meter the power produced by the biomass plant for purposes</p> <p>6 of dispatch and billing.</p> <p>7 Q. Okay. Tell me about your involvement in -- in this</p> <p>8 portion of the contract. Did you have a counterpart at</p> <p>9 Nacogdoches that you were dealing with?</p> <p>10 A. There was no direct counterpart. The -- there was</p> <p>11 discussion. I do not recall a one-on-one discussion with</p> <p>12 anybody. There was general discussion on these issues across</p> <p>13 the negotiating table.</p> <p>14 Q. Did you, at any point, prepare a strike-through</p> <p>15 underline of this section of the contract, if you recall?</p> <p>16 A. I do not recall.</p> <p>17 Q. Did you, in the course of your involvement on the</p> <p>18 negotiating team, occasionally take portions of the draft</p> <p>19 contract and make proposed changes in the strike-through</p> <p>20 underline?</p> <p>21 A. I did.</p> <p>22 Q. Can you tell me what your input on this portion of</p> <p>23 the PPA was?</p> <p>24 A. Not at this point. The discussion was so long ago,</p> <p>25 I can't -- can't recall my specific inputs to it.</p>
<p style="text-align: right;">Page 15</p> <p>1 MS. LAHART: Would you prefer to do it that way,</p> <p>2 Ms. Waratuke?</p> <p>3 MS. WARATUKE: Yeah. And then that way, all three</p> <p>4 of us can do it.</p> <p>5 MS. LAHART: Okay.</p> <p>6 MS. WARATUKE: Thank you.</p> <p>7 MR. DEE: Otherwise, we'll all be fumbling around</p> <p>8 trying to...</p> <p>9 THE WITNESS: I have highlighted Sections 7.2, 7.3,</p> <p>10 7.4, all of Section 10, 11, and 12, Appendix V, VI, and</p> <p>11 IX.</p> <p>12 MR. DEE: Thank you.</p> <p>13 MS. WARATUKE: Yes. Hold on. Thank you.</p> <p>14 BY MS. LAHART:</p> <p>15 Q. Were you brought on to help GRU's finances?</p> <p>16 A. I was brought on to fulfill all the obligations of</p> <p>17 assistant general manager of energy supply. To the degree to</p> <p>18 which my performance there assisted finances, I was happy to</p> <p>19 do so.</p> <p>20 Q. Have you assisted finances?</p> <p>21 A. I would like to think that my performance has been</p> <p>22 beneficial.</p> <p>23 Q. In the table of contents of the power purchase</p> <p>24 agreement, you highlighted Section 7.2, 7.3, and 7.4, which</p> <p>25 are under the heading of metering.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay.</p> <p>2 A. I remember it being basically noncontentious</p> <p>3 detail.</p> <p>4 Q. You've highlighted all of Section 10, which</p> <p>5 concerns dispatch and scheduling. Can you tell me what</p> <p>6 Section 10 refers to, or what's included in that section?</p> <p>7 A. Well, as stated, the dispatch and scheduling, we're</p> <p>8 talking there about the transfer of the power from the plant</p> <p>9 to the grid, and the scheduling of the plant in balance with</p> <p>10 the other generating assets of GRU.</p> <p>11 Q. Transfer of power to the grid, and scheduling it --</p> <p>12 I'm sorry. What was the rest of that answer?</p> <p>13 A. We have a number of power plants within GRU.</p> <p>14 Q. Uh-huh.</p> <p>15 A. We don't run all of them at one time. So we</p> <p>16 schedule which ones will run, and predominantly on the</p> <p>17 reliability and then economic basis. So that's the</p> <p>18 involvement here.</p> <p>19 Q. Who did you work with in -- in drafting this</p> <p>20 portion of the contract?</p> <p>21 A. Well, with many people on both sides, the</p> <p>22 Nacogdoches at that time, and the GRU, but the predominant</p> <p>23 individual, the other side of the -- the counterparty here</p> <p>24 was Len Fagan, who, if I recall, is their -- EMI, the parent</p> <p>25 company's, vice president of operations. So he was their</p>

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<p style="text-align: right;">Page 18</p> <p>1 lend operational type of guy, and I was our lead operational 2 type of guy.</p> <p>3 Q. Did you ever meet with him individually?</p> <p>4 A. Other than meeting in the hall between Bob's 5 conference room and the restroom, I would say no, not 6 formally.</p> <p>7 Q. When you ran into him in the hall, did you have 8 discussions with him regarding this portion of the contract?</p> <p>9 A. I can't recall.</p> <p>10 Q. At some point, Nacogdoches was no longer 11 Nacogdoches. Do you remember about when that occurred?</p> <p>12 A. I remember that it did occur. I cannot recall 13 when.</p> <p>14 Q. Did anyone from GRU go to the city commission and 15 ask them if it was okay to negotiate with a different entity?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you recall having any discussions among the GRU 18 negotiating team regarding whether that would be necessary?</p> <p>19 A. I don't recall any.</p> <p>20 Q. The next portion of the agreement that you've 21 highlighted is titled Pre-Operation Period, Commission and 22 Testing. Can you explain to me the provisions that are 23 included in that section; what they relate to?</p> <p>24 A. Pardon me here. The references here are to the two 25 Appendices V and IX, which refer -- so if we could -- and</p>	<p style="text-align: right;">Page 20</p> <p>1 Hunzinger that says these are my recommendations regarding 2 operation, maintenance, and performance standards. Did you 3 ever prepare any memos or any e-mails in which you made your 4 recommendations to Mr. Hunzinger?</p> <p>5 A. I cannot recall. My preference is always to, 6 particularly in the most important matters, to speak with 7 people face-to-face, which I do with Mr. Hunzinger 8 frequently.</p> <p>9 Q. Would there be any -- any documents you could point 10 me to in which Mr. Hunzinger communicated to you I'm 11 accepting your recommendation on any certain topic; or I 12 disagree with your recommendation, I'm not going to take that 13 recommendation?</p> <p>14 A. Only to the extent that recommendation -- 15 recommended language was -- ended up being in the final 16 document representing Mr. Hunzinger's decision to approve its 17 use.</p> <p>18 Q. Were items ever put into a strike-through underline 19 document without Mr. Hunzinger's approval?</p> <p>20 A. Strike-out and fill-in documents representing 21 recommendations were passed back and forth between numerous 22 people.</p> <p>23 Q. Were they always vetted through Mr. Hunzinger 24 before they were passed onto Nacogdoches?</p> <p>25 A. There was exchanges between Nacogdoches or whatever</p>
<p style="text-align: right;">Page 19</p> <p>1 pre-operational period standards, first paragraph referring 2 to scheduling. To keep GRU advised.</p> <p>3 The second paragraph refers to providing GRU some 4 manufacturer's information that is necessary for us in the 5 dispatch of the unit.</p> <p>6 The third paragraph refers to developing operating 7 procedures, how our dispatch center would work with that 8 plant.</p> <p>9 Q. You say your dispatch center. Forgive my 10 ignorance, but what is it that's dispatched from the dispatch 11 center?</p> <p>12 A. Electricity.</p> <p>13 Q. Okay. You're also involved in the next section, 14 Operation Maintenance and Performance Standards?</p> <p>15 A. Yes.</p> <p>16 Q. Correct?</p> <p>17 Can you explain to me what your involvement was?</p> <p>18 A. My involvement here was to help negotiate, and then 19 recommend for Mr. Hunzinger's approval a standard to -- for 20 performance from the biomass plant that would be advantageous 21 to GRU and its customers.</p> <p>22 Q. Well, now, I've looked through a lot of e-mails 23 that have been produced as part of my request for production 24 regarding the biomass plant negotiations, and I've never 25 actually seen an e-mail from any GRU employee to Mr.</p>	<p style="text-align: right;">Page 21</p> <p>1 entity it was at the time and members of GRU back and forth, 2 but then subsequently to that, the inclusion in the final 3 document was Mr. Hunzinger's decision.</p> <p>4 Q. Is there any record of that decision?</p> <p>5 A. This is the record.</p> <p>6 MR. MCDERMOTT: I'm sorry. Were we making 7 reference to the contract?</p> <p>8 THE WITNESS: Yes. I'm referring to the PPA.</p> <p>9 BY MS. LAHART:</p> <p>10 Q. You've highlighted three different 11 appendixes [verbatim] -- appendices -- appendices; that is, 12 matters that you were involved in. Can you briefly explain 13 to me what is covered by each one of those? Refers to 14 Appendix V, pre-operation period standards.</p> <p>15 A. Well, that's what we were discussing earlier. 16 Would you like me to go through that again?</p> <p>17 Q. No. No. I would not, actually. Template of 18 operating procedures. What is that?</p> <p>19 A. Okay. The operating procedures define how the 20 biomass power plant will work with the generation dispatch 21 center: How it will schedule its outages, how it will report 22 its capabilities, how it will control voltage. A lot of 23 technical part about how the day-to-day operation would be, 24 the same way that our generation dispatch center interfaces 25 with every one of our other power plants, but that is all in</p>

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<p style="text-align: right;">Page 22</p> <p>1 an informal basis and for one company. It needed to be 2 formalized, as we were counterparties in this business deal. 3 Q. And then the last appendix, Initial Testing 4 Standards and Operational Capacity Testing, can you explain 5 to me what that's about? 6 A. Those are the standards by which the plant will be 7 -- have its capacity measured and established for purposes of 8 billing, eventually, and for us to be able to dispatch, 9 knowing how much we have available as reliable power from 10 that plant. 11 Q. Now, again, would Len Fagan have been your primary 12 contact from the other side of the negotiating table on these 13 particular documents? 14 A. Yes. 15 Q. Do you ever talk to Kevin Crawford regarding the 16 biomass plant? 17 A. Yes. 18 Q. What -- what aspects of the biomass project did you 19 discuss with Mr. Crawford? 20 A. Kevin is in our finance department. I've discussed 21 financial attributes of the project with him. 22 Q. Can you be more specific? 23 A. I cannot. 24 Q. Do you recall when those conversations took place? 25 A. There were many conversations over a long period of</p>	<p style="text-align: right;">Page 24</p> <p>1 A. No. I think -- not a specific recollection four 2 years ago, but it's likely. 3 Q. Can you tell me who Arvy (sic) Mervis is? Ari 4 Mervis. 5 A. He was a member of the Cape Wind, Nacogdoches 6 Power, and Pioneer Valley Energy Center, vice president of 7 finance. 8 Q. Well, yes. I can read that from the e-mail myself. 9 But can you tell me a little more specifically what his role 10 in negotiating the contract was? 11 A. Uh-huh. It appeared that he was the lead financial 12 person for Jim Gordon's team. 13 Q. When you say Jim Gordon's team, what do you mean? 14 What's Jim Gordon's team? Who's Jim Gordon? 15 A. Jim Gordon was the head of EMI, one of the parent 16 companies involved in this. 17 Q. One of the parent companies. Were there other 18 parent companies? 19 A. BayCorp Holdings was involved in the beginning. 20 Q. If you can look at the draft agenda that was 21 attached. The first item, Organizational Matters, there's 22 three different categories under that. The first one is 23 Confidentiality. Do you recall there ever being any 24 discussion in any of these meetings regarding how the public 25 records law or government -- The Sunshine Law might apply to</p>
<p style="text-align: right;">Page 23</p> <p>1 time. 2 Q. But you can't tell me about any -- anything that 3 you discussed more specifically than finances? 4 A. No, I can't. 5 Q. Mr. Stanton, I have a stack of mostly e-mails that 6 were provided to me in response to a request for production. 7 I'm not really sure how to -- how to approach this, except 8 what they say about eating an elephant: One bite at a time. 9 I realize by giving a copy to Mr. McDermott, I 10 don't have a copy for you. So I guess we'll have to share. 11 MS. WARATUKE: I can sit beside him and share, if 12 it makes it easier for you. 13 MS. LAHART: That would make it easier. Thank you. 14 MS. WARATUKE: Tim, you want to go ahead and sit 15 here beside me? 16 BY MS. LAHART: 17 Q. First document is an e-mail from Ari Mervis, and 18 you're copied on the e-mail. 19 (Reading) "Please find attached a draft agenda for 20 our meeting on Friday. Please respond to me with any 21 comments or concerns so we can further refine the agenda." 22 Would this agenda be for the meeting that you 23 referenced earlier that took place at the Thomas Center? 24 A. I think it is likely, given the date of 6/23. 25 Q. But you have no specific recollection?</p>	<p style="text-align: right;">Page 25</p> <p>1 these negotiations? 2 A. I have no specific recommend -- recollection of any 3 reference to the public records law -- 4 Q. Uh-huh. 5 A. -- or The Sunshine Law. 6 Q. Well, what was agreed to in terms of 7 confidentiality? 8 A. At this meeting? 9 Q. Ever. Let's start with this meeting. 10 A. I can't recall specifically at this meeting, and 11 I'll just say right now, much of anything, being four years 12 ago and two weeks into my tenure with GRU. I was listing 13 more than anything else. I don't recall that there was ever 14 a formal statement of how matters of confidentiality would be 15 handled. 16 Q. Do you recall any discussions of confidentiality 17 after this initial meeting? 18 A. I recall discussions of trade secret protection. 19 Q. What specifically do you recall about that? 20 A. That it was a discussion thereof. 21 Q. What was considered trade secret? 22 A. I believe the determination of such was left to the 23 entities involved in the biomass plant, the counterparties to 24 GRU, to determine what information they considered to be 25 trade secret, and therefore, important for their businesses,</p>

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<p style="text-align: right;">Page 26</p> <p>1 the competition with others, to remain confidential.</p> <p>2 Q. What do you recall being -- having been included in</p> <p>3 the proposal that Nacogdoches made to the City of Gainesville</p> <p>4 regarding confidentiality?</p> <p>5 A. Could you rephrase that question?</p> <p>6 Q. What do you recall being included in the proposal</p> <p>7 that Nacogdoches made to the City of Gainesville, the one</p> <p>8 that was accepted, about what was included in that RFP about</p> <p>9 confidentiality?</p> <p>10 A. I do not recall. I haven't read that RFP for four</p> <p>11 years.</p> <p>12 Q. Do you know if it said anything about</p> <p>13 confidentiality?</p> <p>14 A. I have no recollection at all.</p> <p>15 Q. Okay. Another item that's listed here is meeting</p> <p>16 minutes. Was there any one person that was responsible for</p> <p>17 keeping minutes of these meetings?</p> <p>18 A. No.</p> <p>19 Q. So did people take turns, or were minutes not kept?</p> <p>20 A. Minutes were kept at some meetings. Some meetings,</p> <p>21 it was individual notes, and the minutes, sometimes, were</p> <p>22 provided from different people.</p> <p>23 MS. LAHART: I guess we should mark this. It will</p> <p>24 be 2.</p> <p>25 (Thereupon, Plaintiff's Exhibit Number 2 was marked</p>	<p style="text-align: right;">Page 28</p> <p>1 you know what that meant?</p> <p>2 A. The -- yes. That one I do. I know there was a --</p> <p>3 let me back up. The commission action. I'm not sure that I</p> <p>4 know what the commission -- what that technically means. I</p> <p>5 recall a suggestion from Commissioner Donovan to have a</p> <p>6 termination provision prior to notice of commencement. If</p> <p>7 that is considered an action, then yes.</p> <p>8 Q. This meeting agenda says that it was required by</p> <p>9 commission action. It doesn't say it was suggested by</p> <p>10 commission action. Does it?</p> <p>11 A. That's what the words say.</p> <p>12 Q. Do you know who prepared this agenda?</p> <p>13 A. I do not.</p> <p>14 Q. Next portion says "Buy-out provisions, RF was --</p> <p>15 RFP was at 10 and end of PPA." Can you tell me what that</p> <p>16 means?</p> <p>17 A. That those were the two opportunities to which GRU</p> <p>18 would have the ability to buy the plant at ten years into the</p> <p>19 contract, and at the end of the purchase power agreement.</p> <p>20 Q. And was that what was ultimately included in the</p> <p>21 purchase power agreement?</p> <p>22 A. No.</p> <p>23 Q. Was there any input from the city commission</p> <p>24 regarding deviating from the terms of the RFP?</p> <p>25 A. I do not recall.</p>
<p style="text-align: right;">Page 27</p> <p>1 for Identification.)</p> <p>2 BY MS. LAHART:</p> <p>3 Q. The next document is entitled Nacogdoches Meeting</p> <p>4 Agenda, July 29th, 2008, and then underneath that, there's a</p> <p>5 six-page document entitled Meeting Notes. Do you recall</p> <p>6 having ever seen these documents before?</p> <p>7 A. Yes.</p> <p>8 Q. How did you receive them?</p> <p>9 A. I'm assuming they were e-mailed to me since almost</p> <p>10 nothing comes hard copy these days.</p> <p>11 Q. Yes.</p> <p>12 I'd like to ask you about what some of these --</p> <p>13 these topics of discussion were. What is a LILO discussion?</p> <p>14 A. Lease in, lease out.</p> <p>15 Q. And did this refer to the lease of the property</p> <p>16 owned by City of Gainesville for the biomass plant?</p> <p>17 A. It did.</p> <p>18 Q. What does lease in, lease out mean?</p> <p>19 A. The -- that would be better answered by a financial</p> <p>20 person or a lawyer.</p> <p>21 Q. Another topic listed is PPA Termination Provision.</p> <p>22 Do you know what that refers to?</p> <p>23 A. Other than the words that speak for themselves, no.</p> <p>24 Q. How about Number 3, Termination Prior to Notice of</p> <p>25 Commitment -- Commencement Required By Commission Action? Do</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. It says, "GRU interested in other opportunities."</p> <p>2 Can you tell me anything about that?</p> <p>3 A. I cannot.</p> <p>4 Q. Would other opportunities have referred to other</p> <p>5 buy-out opportunities?</p> <p>6 A. As I just said, I cannot tell. I don't know what</p> <p>7 that means.</p> <p>8 Q. Did you have any role in negotiating language</p> <p>9 regarding construction risk?</p> <p>10 A. Not to my recollection.</p> <p>11 Q. How about fuel price adjustment?</p> <p>12 A. Not to my recollection.</p> <p>13 Q. How about fuel price risk?</p> <p>14 A. Not to my recollection.</p> <p>15 Q. Performance guarantee?</p> <p>16 A. Not to my recollection.</p> <p>17 Q. Can you tell me what latency of availability</p> <p>18 trigger means?</p> <p>19 A. I have no idea.</p> <p>20 Q. How about no man's land at 80 percent?</p> <p>21 A. I do not know what that means.</p> <p>22 Q. Who do you think would be a better person to ask</p> <p>23 that question of?</p> <p>24 A. It would be other members of Mr. Hunzinger's</p> <p>25 negotiating team.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q. Looking on Page 1 of the meeting notes, the second 2 highlighted item, "Review OUC/Stanton Lease Documents." What 3 does OUC stand for? 4 A. Orlando Utilities Commission. 5 Q. And what were the -- what were the Stanton lease 6 documents? 7 A. I don't know. I know what the Stanton Unit is. No 8 relation to me. It's a power plant that Orlando Utilities 9 has. 10 Q. Oh. 11 A. Coincidental name. I have no idea what the lease 12 documents were. 13 Q. Were you involved in negotiating the lease of the 14 land to Nacogdoches? 15 A. I was not. 16 Q. First place I see, what I think is your name 17 mentioned, is on Page 3. "John S. What was the longest you 18 have held an asset?" Can you explain to me what that 19 question was about? 20 A. I was asking him how long they had maintained 21 ownership of one of the projects before they sold it. 22 Q. Why was that -- why were you entrusted in that? 23 A. To looking at their long-term commitment to the 24 project, and also in reference to the opportunities for 25 buy-out that we discussed a moment ago.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Go to Page 5. There's a statement attributed to 2 you. "One year AF guarantee is too long." 3 A. Yes. 4 Q. What does that mean? 5 A. It means -- AF means available -- availability 6 factor, or conversely, unavailability. Whether the glass is 7 half full or empty. 8 Q. What does that mean in the context of this 9 contract? 10 A. Well, as stated here in this, if unavailability is 11 all July, August, it's a different deal for fall/winter. If 12 you annualize that, you can come out with a number that would 13 meet contractual requirements, but have a -- the poorest 14 performance when it would be the most detrimental to GRU. So 15 we wanted to craft a contract so that could not happen. 16 Q. Now, before you expressed your opinion that a 17 one-year AF guarantee period is too long, did you discuss it 18 with Mr. Hunzinger and get his buy-off? 19 A. At this point, I believe the subject came up in the 20 meeting, and I offered an opinion. 21 Q. There are some highlighted, I guess, action items 22 on this -- in these meeting notes. For example, on the last 23 page, "Action: GRU will put together a proposal on the 24 pricing structure for auxiliary power." 25 Can you tell me who at GRU was responsible for</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. Did you have a concern that they might turn around 2 and sell the plant to a third party? 3 A. I felt that they -- it was unlikely that they would 4 maintain ownership of the plant through the length of the 5 PPA. 6 Q. Why did you think that? 7 A. Because I have seldom, if ever, met an independent 8 power plant developer that maintained ownership of the 9 project through the length of the project. 10 Q. Why do -- why do they not hold the asset for the 11 length of the project? Why -- what would cause them to sell? 12 A. It would be for their business reasons, and then 13 you would have to ask them what those business reasons were. 14 Q. Okay. 15 A. I would not presume to guess on their part. 16 Q. You also, apparently, said in the meeting that this 17 arrangement represents a major culture shift for GRU, because 18 GRU has always owned its power plants. Is that correct? 19 A. Correct. 20 Q. What -- what factors caused GRU to accept an 21 arrangement that was a major culture shift? 22 A. It was financially beneficial to GRU to have 23 someone else carry the debt, and because of the value of the 24 renewable energy credits, which GRU being non-taxpaying, 25 could not take advantage of.</p>	<p style="text-align: right;">Page 33</p> <p>1 that? 2 A. As I recall, that was Rick Bachmeier. 3 Q. Another action item is GRU will evaluate 4 transmission at 116 megawatts. Do you know who did that? 5 A. To the best of my recollection, that was Dave 6 Bolio, assistant general manager for energy delivery. He's 7 responsible for the transmission system. 8 Q. It says, "NP will draft PPA reflecting the gross 9 output option." Does that mean Nacogdoches Power? 10 A. I presume NP is Nacogdoches Power. 11 MS. LAHART: Could you mark this as Exhibit 3? 12 (Thereupon, Plaintiff's Exhibit Number 3 was marked 13 for Identification.) 14 BY MS. LAHART: 15 Q. Mr. Stanton, do you supervise any GRU employees? 16 A. I do. 17 Q. How many? 18 A. The authorized complement for energy supply is 167 19 people. 20 Q. Do you have managers between you and some of those 21 people? 22 A. I do. 23 Q. How many? 24 A. Without drawing up the organizational chart, I 25 think we have, in the managers and professionals, the</p>

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<p style="text-align: right;">Page 34</p> <p>1 non-hourly, the salaried people, I believe the head count is 2 31. There are four directors that report directly to me. 3 Q. Okay. Do you supervise any of the people that were 4 on the negotiating team? 5 A. No. 6 Q. Who are the managers that you supervise? 7 A. The direct supervision? The four directors? 8 Q. Yes. 9 A. Is that the question? 10 Q. Yes. 11 A. Okay. Karen Alford, Dino De Leo -- De Leo is D-e, 12 and then a second word, Leo. D-e and L-e-o. Dino. Melissa 13 Jones, and Doug Beck. 14 Q. The next document is an e-mail from Richard 15 Bachmeier to a number of people, including yourself. 16 A. Uh-huh. 17 Q. Can you tell me what this -- or identify this for 18 the record? 19 A. Well, it says attached are meeting notes, and they 20 appear to be the notes we just went over. 21 Q. So does this refresh your recollection regarding 22 how you came to have those notes in your possession? 23 A. It would confirm what I said before. I most likely 24 received them through e-mail. 25 Q. Okay.</p>	<p style="text-align: right;">Page 36</p> <p>1 journals, logs -- whatever you would call them -- for the 2 years of 2008 and 2009. 3 Q. Have you read the complaint that was filed by 4 Gainesville Citizens Care? 5 A. I read it sometime in the past. I have no, you 6 know, accurate recollection of it. I read through it once. 7 Q. Did you review either the power purchase agreement 8 or the RFP? 9 A. I did not review the RFP at all, and I have, by 10 virtue of my job requirements, I frequently refer to the PPA. 11 Q. Have you been involved in negotiating deals like 12 this one before, perhaps as a consultant or when you worked 13 for FPL? 14 A. I have. 15 Q. Can you name any specific facilities that you were 16 involved in negotiating contracts for? 17 A. I can, and one would be the Multitrade of Virginia. 18 That is an 80-megawatt biomass plant. 80-megawatt biomass 19 power plant. 20 Q. Who you did you represent in the negotiations? 21 A. The Multitrade, LLC. 22 Q. Is that when you were consulting? 23 A. No. 24 Q. Who did you work for? 25 A. The FPL group subsidiary, FPL Energy.</p>
<p style="text-align: right;">Page 35</p> <p>1 MS. LAHART: Just for the record, we'll have this 2 marked as Exhibit 5? 3 THE COURT REPORTER: 4. 4 MS. LAHART: 4. And that will be the e-mail and 5 the attachment. 6 (Thereupon, Plaintiff's Exhibit Number 4 was marked 7 for Identification.) 8 MS. LAHART: Anybody else ready for a break? 9 MS. WARATUKE: Yeah, I can stand one. 10 (Thereupon, there was a brief recess.) 11 BY MS. LAHART: 12 Q. Without telling me about anything that you 13 discussed with your attorney, could you tell me what you did 14 to prepare for your deposition today? 15 A. I reviewed documents. 16 Q. Can you be more specific? What documents did you 17 review? 18 MS. WARATUKE: Well, I'm going to -- I'm going to 19 ask him and instruct him not to go into documents that 20 he reviewed that I shoved him or that I would have 21 provided him or that I specifically asked him to look 22 at. 23 MS. LAHART: Okay. 24 MS. WARATUKE: But anything you did on your own. 25 A. Other than that, I reviewed my business diaries,</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Where is that facility located? 2 A. That is Altavista, Virginia. 3 Q. What else? Any others? 4 A. The Doswell Plant. Doswell, and I guess it was 5 Doswell, LLP, and that's also in Virginia. It was also an 6 FPL energy plant. Bellingham, in Bellingham, Massachusetts. 7 Also an FPL energy plant. 8 Q. Was that also a biomass plant? 9 A. No, it was not. 10 Q. What kind of plant was it? 11 A. That was a combined cycle. Gas-powered combined 12 cycle, as was Doswell. And Sayreville in Sayreville, New 13 Jersey. That's a gas-powered combined cycle plant. 14 Q. Were all of these negotiations while you were 15 employed by FPL? 16 A. By the FPL -- by FPL Groups Subsidiary. FPL Energy 17 currently known as Next Era Energy Resources. 18 Q. Okay. Any other biomass plants besides the one 19 that you mentioned in Altavista, Virginia, and the one here 20 in Gainesville? 21 A. I had operational responsibility for an additional 22 one. I was not involved -- wasn't involved in the 23 acquisition of it, and that is known as AVEC, all capital 24 letters A-V-E-C, Aroostook Valley Electric Company. 25 Aroostook Valley is -- Aroostook County is in Maine. It was</p>

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<p style="text-align: right;">Page 38</p> <p>1 a 31-megawatt biomass plant.</p> <p>2 Q. The one being built in Gainesville is 100</p> <p>3 megawatts; correct?</p> <p>4 A. That's correct. That's the contract capacity.</p> <p>5 Q. What does that mean, that's the contract capacity?</p> <p>6 A. That means it's the nominal capacity for purpose of</p> <p>7 establishing the contract.</p> <p>8 Q. Does that mean that the biomass plant would be able</p> <p>9 to produce more than 100 megawatts?</p> <p>10 A. It may or may not.</p> <p>11 Q. Is it obligated to produce 100 megawatts?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Tedious, though it may be, if we could</p> <p>14 return to the stack of documents in front of you. The next</p> <p>15 one in my pile, hopefully the same in yours, states at the</p> <p>16 top in bold letters Annotated Agenda, GRU Nacogdoches Biomass</p> <p>17 PPA Meeting, Boston, September 8th, 2008.</p> <p>18 Were you in attendance at that meeting?</p> <p>19 A. I was.</p> <p>20 Q. Who else was there on the GRU side of the table?</p> <p>21 Do you recall?</p> <p>22 A. As I recall, Mr. Hunzinger, Mr. Regan, Mr. Manasco,</p> <p>23 and I believe Mr. Bachmeier.</p> <p>24 Q. What about Mr. Cole?</p> <p>25 A. Yes. He was there. That's correct. I was just</p>	<p style="text-align: right;">Page 40</p> <p>1 A. The entity that I recall, American Renewables, the</p> <p>2 statement that they wanted to go into building numerous</p> <p>3 biomass plants, and have them collected under this one -- one</p> <p>4 entity. The way they wanted to go about doing their</p> <p>5 business.</p> <p>6 Q. So at some point, Nacogdoches became American</p> <p>7 Renewables?</p> <p>8 A. I don't believe that's correct.</p> <p>9 Q. What's wrong about that statement?</p> <p>10 A. I believe that American Renewables was established</p> <p>11 above the LLC level. Nacogdoches was the plant, and then</p> <p>12 American Renewables was now a new parent, to the best of my</p> <p>13 recollection. A transactional lawyer would better answer</p> <p>14 that question.</p> <p>15 Q. Fair enough.</p> <p>16 Can you tell me how the entity GREC fits into all</p> <p>17 of this?</p> <p>18 A. My understanding is GREC, the non-recourse</p> <p>19 subsidiary, LLC, is wholly owned by American Renewables.</p> <p>20 Q. When this transformation -- when Nacogdoches was no</p> <p>21 longer Nacogdoches, did you deal with any different people</p> <p>22 than you had been dealing with all along?</p> <p>23 A. It was essentially the same group.</p> <p>24 Q. Essentially the same. Were there any differences</p> <p>25 that you recall?</p>
<p style="text-align: right;">Page 39</p> <p>1 thinking of the GRU employees.</p> <p>2 Q. What was Mr. Cole's role in -- in negotiating the</p> <p>3 power purchase agreement?</p> <p>4 A. Transactional counsel.</p> <p>5 Q. Can you tell me why GRU needed outside counsel?</p> <p>6 A. No.</p> <p>7 Q. Fair enough. This was a two-day meeting. Is that</p> <p>8 correct?</p> <p>9 A. As I recall.</p> <p>10 Q. I notice one of the items on this agenda is</p> <p>11 Nacogdoches Project Entity. Do you recall the discussions</p> <p>12 about that?</p> <p>13 A. No.</p> <p>14 Q. At some point, Nacogdoches was no longer</p> <p>15 Nacogdoches. Do you recall when that was?</p> <p>16 A. As stated earlier, I recall it happening. I do not</p> <p>17 recall when.</p> <p>18 Q. Did you state that earlier?</p> <p>19 A. I did.</p> <p>20 Q. I apologize.</p> <p>21 A. No problem.</p> <p>22 Q. I didn't remember.</p> <p>23 How did it -- how was that presented to the GRU</p> <p>24 team by Nacogdoches? What were you told regarding why there</p> <p>25 was a change in entity?</p>	<p style="text-align: right;">Page 41</p> <p>1 A. I recall members of the group changing, but not</p> <p>2 linked to the change in entities.</p> <p>3 Q. Notice Number 5, there's a double star, which, if</p> <p>4 I'm understanding this correctly, means it was GRU's input.</p> <p>5 (Reading) "We suggest a curtailable version with</p> <p>6 by-through to avoid having to include in-planning margins."</p> <p>7 Can you tell me what that means? And if you can't,</p> <p>8 that's fine.</p> <p>9 A. No. I'm -- this one, firm power versus curtailable</p> <p>10 power. One requires the -- maintaining reserve capacity to</p> <p>11 support. The other one does not.</p> <p>12 Q. Okay. Explain that as if you were explaining it to</p> <p>13 a 7th grader, and maybe I'll get it. What is curtailable</p> <p>14 power?</p> <p>15 A. One that the provider has the ability to</p> <p>16 unilaterally discontinue.</p> <p>17 Q. Okay. Was that suggestion ultimately incorporated</p> <p>18 into the power purchase agreement?</p> <p>19 A. No.</p> <p>20 Q. Do you know why not?</p> <p>21 A. Because the auxiliary and stand-by power agreement</p> <p>22 is a separate document from the PPA. Not included in the</p> <p>23 PPA. Again, I believe that is correct. You'd have to ask a</p> <p>24 lawyer. I believe it's a separate stand-alone document.</p> <p>25 Q. Is it an appendix to the PPA?</p>

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<p style="text-align: right;">Page 42</p> <p>1 A. If we go back to the appendix list and look?</p> <p>2 Q. Please do. This one.</p> <p>3 A. Yes. It is Appendix VII. So it is part of the</p> <p>4 PPA.</p> <p>5 Q. Okay.</p> <p>6 A. I stand corrected.</p> <p>7 Q. When it says, "We suggest a curtailable version,"</p> <p>8 do you know whose suggestion that was?</p> <p>9 A. I think that "we" is the royal "we", GRU.</p> <p>10 Q. Were you involved in formulating that suggestion?</p> <p>11 A. I do not recall being involved in that.</p> <p>12 Q. Under Item Number 3, Fixed Versus Escalating</p> <p>13 Capacity Revenue Requirement, the second statement says, "I</p> <p>14 prefer the escalating one, because it starts out lower when</p> <p>15 market is lower in early years."</p> <p>16 Do you know who the "I" is referring to?</p> <p>17 A. I do not.</p> <p>18 MS. LAHART: We need to mark that as Exhibit 5.</p> <p>19 (Thereupon, Plaintiff's Exhibit Number 5 was marked</p> <p>20 for Identification.)</p> <p>21 BY MS. LAHART:</p> <p>22 Q. And the next exciting document -- this must be a</p> <p>23 good one, because it's marked confidential. Well, so is the</p> <p>24 other one.</p> <p>25 MS. WARATUKE: You have a strange definition of</p>	<p style="text-align: right;">Page 44</p> <p>1 recommendation that you made to Mr. -- Mr. Hunzinger. Would</p> <p>2 you have e-mailed it to him?</p> <p>3 A. The recommendation was made in the form of</p> <p>4 negotiation -- the -- between the groups in which</p> <p>5 Mr. Hunzinger was there as the team leader and</p> <p>6 decision-maker.</p> <p>7 Q. All right. Did you tell me that you drafted a</p> <p>8 document?</p> <p>9 A. I did.</p> <p>10 Q. What was the document?</p> <p>11 A. The document eventually became what is Appendix IX,</p> <p>12 I think it is. Let me verify that. Yes.</p> <p>13 Q. Did you have any conversations with Mr. Westphal</p> <p>14 about what was included in that document?</p> <p>15 A. No.</p> <p>16 Q. How did you transmit your first draft of Appendix</p> <p>17 VI (sic) to the other members of the team?</p> <p>18 MS. WARATUKE: Did you say IX or VI? I'm sorry.</p> <p>19 THE WITNESS: IX.</p> <p>20 MS. WARATUKE: IX? Okay.</p> <p>21 MR. DEE: That's -- yeah. Thank you.</p> <p>22 THE WITNESS: If I said, VI, I misspoke.</p> <p>23 MS. WARATUKE: No. She said VI. I was just a</p> <p>24 little confused. Were you just talking about what he</p> <p>25 was talking about?</p>
<p style="text-align: right;">Page 43</p> <p>1 exciting.</p> <p>2 BY MS. LAHART:</p> <p>3 Q. After September 8th Meeting, Critical Issues For</p> <p>4 Follow-Up. Do you know who prepared this document?</p> <p>5 A. I do not.</p> <p>6 Q. By looking at the -- the -- what's contained in the</p> <p>7 footer there, is that something that would typically be</p> <p>8 contained in a document that was prepared by GRU?</p> <p>9 A. It could be.</p> <p>10 Q. Okay. I see your name under Item Number 6.</p> <p>11 "What's a fair test of capacity. Stanton and Westphal." Who</p> <p>12 is Westphal?</p> <p>13 A. Roger Westphal --</p> <p>14 Q. Westphal.</p> <p>15 A. -- was a principal engineer since -- subsequently</p> <p>16 retired.</p> <p>17 Q. Did you and Mr. Westphal come to an agreement as to</p> <p>18 what a fair test of capacity would be?</p> <p>19 A. No.</p> <p>20 Q. Tell me what you did. I'm assuming that this is a</p> <p>21 task that was assigned to you. What did you do to complete</p> <p>22 this task?</p> <p>23 A. I drafted a recommendation and submitted it to Mr.</p> <p>24 Hunzinger for approval.</p> <p>25 Q. Well, surely there's a paper trail of that</p>	<p style="text-align: right;">Page 45</p> <p>1 MS. LAHART: Yes.</p> <p>2 MS. WARATUKE: Okay.</p> <p>3 MS. LAHART: I thought I said IX. Sorry. I wrote</p> <p>4 down IX.</p> <p>5 MS. WARATUKE: Sorry.</p> <p>6 A. I recall drafting -- you know, creating the first</p> <p>7 draft, and forwarding it to Jonathan Cole to be included in a</p> <p>8 broader draft of the document that would be brought to Mr.</p> <p>9 Hunzinger for his approval.</p> <p>10 Q. How did you forward it to Mr. Cole?</p> <p>11 A. By e-mail.</p> <p>12 Q. What did Mr. Cole do with it?</p> <p>13 A. Included it in a broader document, draft document.</p> <p>14 to be submitted to Mr. Hunzinger for approval.</p> <p>15 Q. What is that broader document? Did it have a</p> <p>16 title?</p> <p>17 A. It was the -- our draft of the PPA.</p> <p>18 Q. So would it have been included in the -- whatever</p> <p>19 draft of the PPA exists after September 8th?</p> <p>20 A. I cannot say with certainty whether another draft</p> <p>21 existed before I completed that assignment and provided my</p> <p>22 recommended language to Mr. Hunzinger.</p> <p>23 Q. You provided your recommended language to Mr. Cole;</p> <p>24 correct?</p> <p>25 A. Well, he was the -- I transmitted it through him</p>

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<p style="text-align: right;">Page 46</p> <p>1 for the inclusion of the broader drafted document that was 2 submitted to Mr. Hunzinger for his approval. 3 Q. Why is Mr. Westphal's name associated with yours 4 under Item Number 6? 5 A. He has experience in that area, but it was not 6 utilized. 7 Q. You didn't utilize his experience? 8 A. I did not. 9 MS. LAHART: Exhibit Number 6. 10 (Thereupon, Plaintiff's Exhibit Number 6 was marked 11 for Identification.) 12 BY MS. LAHART: 13 Q. Are you familiar with this document, Mr. Stanton? 14 MS. WARATUKE: Which one are we on now? 15 MS. LAHART: Meeting Notes and Action Items, 16 September 8th, and according to the footer at the 17 bottom, this is a draft. 18 A. Yes. 19 Q. How are you familiar with it? 20 A. It was sent to me at the conclusion of this 21 meeting, again I presume, by e-mail rather than hard copy. 22 Q. Item Number 6 refers to start-up costs. It says 23 the action is that John Stanton will discuss this with Len 24 Fagan. Did you have discussions with Mr. Fagan? 25 A. I did.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. So when the decision is made -- you can make the 2 decision at two points in time. You can make the decision 3 after you've shut it down, whether you'll restart, or you can 4 make a decision when you get ready to shut it down. If 5 you're looking at it from the start-up point of view, you can 6 consider, as I was saying there, what's it going to cost me 7 versus all my other generating options for the amount of fuel 8 that it's going to take to bring it back in service before 9 you start generating power, and therefore, generating 10 revenue, how much electricity, auxiliary power it's going to 11 take to run all the pumps and fans and all the rest of that, 12 all the other variable on out. 13 My preference is to consider that zero, and put all 14 those costs into shutdown and make that decision at shutdown, 15 because once you make the decision to shut down, unless 16 you're shutting down for the last time and decommissioning 17 the plant, you're going to start it again. So you are 18 already committing yourself to making those -- to those 19 costs, even though they won't be realized in cash until down 20 the line. You are, in fact, accruing those costs when you 21 make the decision to shut down. So my preference was, my 22 general practice, to load the costs into shutdown rather than 23 into startup. 24 Q. And how did that make its way into the contract, or 25 did it?</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Did Mr. Hunzinger participate in those discussions? 2 A. Not as I recall. 3 Q. How did those discussions take place? By phone or 4 face-to-face? 5 A. Phone and e-mail. 6 Q. It says, "Per GRU, this was changed to shutdown 7 costs." 8 Can you tell me what that means? 9 A. I can. The -- when you're dispatching a plant, you 10 can look at the cost of bringing it in service one of two 11 ways. You can look at it as the cost of startup, meaning the 12 fuel required to bring it into service before you start 13 generating electricity, the auxiliary power that you use 14 offline, and other variable O&M that's required to bring the 15 plant back into line. However -- 16 Q. Can I interrupt you for just a second? When you 17 say start-up costs, are you talking about going to a facility 18 that's constructed and turning it on? 19 A. I'm talking about one that is a commercial 20 operation, and has been taken off the line for either forced 21 off or taken off intentionally to perform maintenance, or 22 it's off because it's -- economic dispatch. It's been 23 dispatched off, because it's not needed in the generation mix 24 that day. 25 Q. Okay.</p>	<p style="text-align: right;">Page 49</p> <p>1 A. It did. 2 Q. Could you show me in the contract? 3 A. Well, I'm having trouble finding it, but I believe 4 it's in here someplace. Okay. Okay. Yeah, in -- under 5 billing and payment, 8.2.10, shut-down charge. It's in there 6 as shutdown, not as startup. 7 Q. 8.2. -- 8 A. 10. 9 Q. 10. 10 Do you know if that term is defined anywhere in the 11 contract? I'll answer that question myself. 12 A. Not without reviewing the definitions. 13 Q. It refers me to another document. Shut-down 14 charge, as the meaning set forth in Appendix III attached 15 hereto. 16 Q. Who's Len Fagan? 17 A. As previously stated, Len Fagan is -- when I first 18 met him, vice president of operations for EMI. I'm assuming 19 he has other titles related to other entities, but I can't 20 speak to them. 21 Q. You know what, I do remember you telling me that 22 before. I apologize. I notice under Item Number 10, 23 Termination For Convenience, it says, "Following much 24 discussion, GRU decided it would revisit this issue with 25 decision-makers."</p>

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<p style="text-align: right;">Page 50</p> <p>1 MR. DEE: Is that Paragraph 9, you mean?</p> <p>2 MS. LAHART: Yes. What did I say?</p> <p>3 MR. DEE: Ten.</p> <p>4 MS. LAHART: I'm really not generating power at</p> <p>5 maximum capacity today; am I?</p> <p>6 BY MS. LAHART:</p> <p>7 Q. Do you know if that issue was revisited with the</p> <p>8 decision-makers?</p> <p>9 A. Whom are you referring to as the decision-makers?</p> <p>10 Q. Well, who do you think that refers to?</p> <p>11 A. In here, I believe that refers to the city</p> <p>12 commissioners.</p> <p>13 Q. Do you know if this issue was revisited with the</p> <p>14 city commissioners?</p> <p>15 A. I know that Bob Hunzinger mentioned that he was</p> <p>16 going to discuss that with them, and I presume that he did.</p> <p>17 Q. Do you know if that was before or after there was a</p> <p>18 final version of the contract?</p> <p>19 A. To the best of my recollection, it was before.</p> <p>20 Q. What specifically do you recall about that?</p> <p>21 A. That he said he was going to discuss it with them,</p> <p>22 and I presume that he did.</p> <p>23 Q. Did he tell you that he had?</p> <p>24 A. I don't recall a direct statement to that effect.</p> <p>25 Q. Did he ever communicate to you any input that he</p>	<p style="text-align: right;">Page 52</p> <p>1 What is that \$50 million fee?</p> <p>2 A. I believe that refers to the cost of a termination</p> <p>3 provision to compensate EMI slash American Renewables slash</p> <p>4 GREC for their lost opportunity costs associated with working</p> <p>5 on this project as opposed to any other.</p> <p>6 Q. Would that \$50 million fee make it into the final</p> <p>7 power purchase agreement?</p> <p>8 A. No.</p> <p>9 Q. What is the fee that was included, or was there a</p> <p>10 fee included?</p> <p>11 A. There was not.</p> <p>12 MS. LAHART: Exhibit 7.</p> <p>13 (Thereupon, Plaintiff's Exhibit Number 7 was marked</p> <p>14 for Identification.)</p> <p>15 (Thereupon, Ms. Beatty exited the deposition room.)</p> <p>16 BY MS. LAHART:</p> <p>17 Q. For some reason, I have a duplicate of the next</p> <p>18 one. One is a draft, and one appears to be a final, but I</p> <p>19 think the difference between one or the other is worth making</p> <p>20 a separate exhibit. So let's move on to the next document.</p> <p>21 A. Which is in your stack?</p> <p>22 Q. In my stack, it is an e-mail from Joshua Levine</p> <p>23 dated Monday, September 15th, 2008.</p> <p>24 A. I have it.</p> <p>25 Q. Did you receive this e-mail?</p>
<p style="text-align: right;">Page 51</p> <p>1 had received from the city commission regarding the</p> <p>2 termination for convenience clause?</p> <p>3 A. The -- he did share with those of us on his team</p> <p>4 that he had spoken, regarding this clause, with the city</p> <p>5 commissioners.</p> <p>6 Q. When did he share that?</p> <p>7 A. Late 2008, I believe, and I say that based on the</p> <p>8 the discussions on the magnitude of the cost of such a</p> <p>9 provision that took place during that period of time.</p> <p>10 Q. Do you recall any conversations regarding the</p> <p>11 buy-out option, 15 versus 25 years? That's the next item on</p> <p>12 the agenda.</p> <p>13 A. Yes.</p> <p>14 Q. What do you recall about that?</p> <p>15 A. I recall that it was mentioned. You know, there</p> <p>16 were several different points in time in which it was</p> <p>17 mentioned, and the general consideration is that there's also</p> <p>18 -- both sides have the opportunity to, you know, offer a sale</p> <p>19 or purchase to the other at any time during the agreement as</p> <p>20 well.</p> <p>21 Q. Uh-huh. How long was the term of the agreement to</p> <p>22 be under the request for proposal -- the RFP? Do you recall?</p> <p>23 A. The request for proposals issued by GRU I believe</p> <p>24 was for 20 years.</p> <p>25 Q. It mentions a concern about a \$50 million fee.</p>	<p style="text-align: right;">Page 53</p> <p>1 A. I have no direct recollection of it, but I'm sure I</p> <p>2 did.</p> <p>3 Q. This e-mail references a revised draft. Rather</p> <p>4 than print out the entire document, I only included the first</p> <p>5 page. It's a draft dated -- the cover sheet of a draft dated</p> <p>6 November 15th, 2008.</p> <p>7 I've seen a lot of references to, sort of, sit-down</p> <p>8 face-to-face meetings. Were there ever telephone conference</p> <p>9 calls between the folks from GRU and the folks from GREC?</p> <p>10 A. I recall conference calls from within the members</p> <p>11 of the GRU team. I do not personally recall participating in</p> <p>12 a conference call between GRU and GREC. It doesn't mean it</p> <p>13 didn't happen. I just don't remember participating in one.</p> <p>14 Q. Okay. When you had conference calls with the GRU</p> <p>15 folks, who was typically included in them? Was it the same</p> <p>16 people that you've mentioned before?</p> <p>17 A. Yes.</p> <p>18 Q. This references Appendix VII, Auxiliary Power</p> <p>19 Agreement. Was that the document that you drafted?</p> <p>20 A. No.</p> <p>21 Q. Who drafted that? Do you recall?</p> <p>22 A. Rick Bachmeier.</p> <p>23 Q. And how about the sustainability standards? Who</p> <p>24 drafted that? Do you recall?</p> <p>25 A. I do not recall.</p>

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<p style="text-align: right;">Page 54</p> <p>1 MS. LAHART: Can we mark this as Exhibit 8?</p> <p>2 (Thereupon, Plaintiff's Exhibit Number 8 was marked</p> <p>3 for Identification.)</p> <p>4 BY MS. LAHART:</p> <p>5 Q. The next document in my stack is an e-mail to you</p> <p>6 from Mr. Regan complimenting you, and attached to it is a</p> <p>7 document entitled Draft: Performance Considerations For</p> <p>8 GRU/GREC, PPA.</p> <p>9 Tell me how this document came to be.</p> <p>10 A. I created it.</p> <p>11 Q. I assume when it says up here in the right-hand</p> <p>12 corner, "JWS 9-22-08, that refers to you?</p> <p>13 A. It refers to me and the date, and the date I did</p> <p>14 that.</p> <p>15 Q. Did somebody direct you to prepare this?</p> <p>16 A. The -- it was -- this was one of the areas, from</p> <p>17 previous discussion, where the assignment came to myself and</p> <p>18 Mr. Fagan to work on this document. So I -- the initial</p> <p>19 draft -- had proposed this. As it says, this was for</p> <p>20 consideration.</p> <p>21 Q. Mr. Regan's e-mail refers to it as a nice piece of</p> <p>22 provoking -- nice piece of work provoking questions to</p> <p>23 discuss, and he talked about having a small -- small group</p> <p>24 sit-down. You, me, Rick. Did that sit-down ever occur?</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">Page 56</p> <p>1 (sic)? Transmitted for review by many people, and the</p> <p>2 mechanism was as described before. I forwarded it to</p> <p>3 Jonathan Cole for inclusion in a larger draft of the document</p> <p>4 for review for -- by many, and approval by Mr. Hunzinger.</p> <p>5 MS. LAHART: It would be Exhibit 9.</p> <p>6 (Thereupon, Plaintiff's Exhibit Number 9 was marked</p> <p>7 for Identification.)</p> <p>8 THE WITNESS: Would anybody mind if I got myself</p> <p>9 another half cup of coffee?</p> <p>10 MS. LAHART: Absolutely not. You can get yourself</p> <p>11 another whole cup of coffee, if you want.</p> <p>12 (Thereupon, there was a brief recess.)</p> <p>13 (Thereupon, Ms. Beaty is present in the deposition</p> <p>14 room.)</p> <p>15 BY MS. LAHART:</p> <p>16 Q. Next up in my stack is a December 23rd e-mail from</p> <p>17 Josh Levine to a bunch of folks, including yourself.</p> <p>18 Did you receive this e-mail?</p> <p>19 A. Again, I assume I did.</p> <p>20 Q. Item Number 2 states that Len -- and I'm assuming</p> <p>21 that's Mr. Fagan -- and Mr. Levine will be speaking with John</p> <p>22 S. tomorrow, Christmas Eve. Working on Christmas Eve?</p> <p>23 A. It's not the first time.</p> <p>24 Q. To discuss some issues on Section 12.3, and</p> <p>25 American Renewables is still reviewing Section 12.4.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. Mr. Regan refers to someone named Casserleigh?</p> <p>2 A. Yes.</p> <p>3 Q. Who is that?</p> <p>4 A. Randy Casserleigh was the former director of</p> <p>5 production assurance support for energy supply. He has</p> <p>6 subsequently retired.</p> <p>7 Q. How about Moffit? "Maybe Moffit." Who is Moffit?</p> <p>8 A. Dan Moffit is the former plant manager of the</p> <p>9 Deerhaven Plant. Subsequently resigned.</p> <p>10 Q. And you told me earlier who Westphal is. That's</p> <p>11 somebody that works with GREC; correct? Was on their team?</p> <p>12 A. Incorrect. GRU employee.</p> <p>13 Q. GRU employee. I apologize.</p> <p>14 A. Now retired.</p> <p>15 Q. Don't know any of these people, so it's hard for me</p> <p>16 to keep them all straight.</p> <p>17 A. If you knew Roger, you would remember.</p> <p>18 Q. Do you -- can you tell me what happened to this</p> <p>19 document after September 22nd, 2008?</p> <p>20 A. Well, it eventually went through revision, and</p> <p>21 subsequently approved in some form, and the final form</p> <p>22 included in the PPA. It was approved by Mr. Hunzinger.</p> <p>23 Q. Would you be able to show me any record of this</p> <p>24 having been transmitted to Mr. Hunzinger for his review?</p> <p>25 A. It was transmitted (sic) -- excuse me. Transmitted</p>	<p style="text-align: right;">Page 57</p> <p>1 Did you have discussions with Mr. Levine and</p> <p>2 Mr. Fagan?</p> <p>3 A. Without referring to my diary, I can't tell you. I</p> <p>4 can't recall if that actually took place or not.</p> <p>5 Q. According to the documents, the final power</p> <p>6 purchase agreement, 12.3 is operating performance standards.</p> <p>7 Is that something that you would have discussed with</p> <p>8 Mr. Fagan and Mr. Levine?</p> <p>9 A. It is.</p> <p>10 Q. Can you tell me whether those conversations would</p> <p>11 have been taken -- taken place by phone or -- or</p> <p>12 face-to-face?</p> <p>13 A. I believe that there was phone conversations,</p> <p>14 face-to-face conversations, and exchange of e-mails regarding</p> <p>15 that subject.</p> <p>16 Q. Okay.</p> <p>17 MS. LAHART: That would be Exhibit 9?</p> <p>18 THE COURT REPORTER: 10.</p> <p>19 MS. LAHART: 10.</p> <p>20 (Thereupon, Plaintiff's Exhibit Number 10 was</p> <p>21 marked for Identification.)</p> <p>22 BY MS. LAHART:</p> <p>23 Q. Next up is an e-mail from you, Mr. Stanton,</p> <p>24 dated --</p> <p>25 A. The next thing I have is this.</p>

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<p style="text-align: right;">Page 58</p> <p>1 Q. Oh. That was an attachment to the previous e-mail. 2 Again, I didn't print out the entire power purchase 3 agreement -- 4 A. Sorry. 5 Q. -- in an effort to save some trees. 6 Monday, October 6, 2008. Did you send this e-mail? 7 A. I'm presuming I did. It has my name on it. 8 Q. Part of my deliverables from Friday. Can you tell 9 me what you were referring to? 10 A. The draft Appendix VII. Excuse me, VI, which is 11 the following. 12 Q. What did you mean by "my deliverables"? 13 A. This is -- you know, I was asked to recommend for 14 others' consideration and Mr. Hunzinger's final decision what 15 the language should be in this area of the contract. So I 16 made that recommendation for others' consideration and Mr. 17 Hunzinger's decision. 18 Q. So for some reason, Mr. Hunzinger wasn't copied on 19 this e-mail? 20 A. The transmittal of these, as stated before, is 21 generally through Jonathan Cole to be included in a larger 22 draft document subject to Mr. Hunzinger's approval. 23 Q. Why was that? 24 A. Why was what? 25 Q. Why was -- why were things filtered through Mr.</p>	<p style="text-align: right;">Page 60</p> <p>1 A. It is an e-mail sent from Jonathan Cole, on 2 December 23rd, 2008, to a number of people, one of whom is 3 myself. 4 Q. Okay. And it references a red-line version showing 5 changes between American Renewables draft and the last draft 6 circulated by Orrick, which is Mr. Cole's law firm; correct? 7 A. That is correct. 8 Q. And again, I didn't print out the entire document, 9 but the attached draft is dated December 23rd, 2008. Is that 10 correct? 11 A. The -- in the body of the document, it's blank. At 12 the top of the page, it says December 23rd. 13 Q. On the body of it, it says dated as of January 14 2009? 15 A. Correct. 16 Q. Okay. 17 A. The date, there's a blank in there. 18 Q. Right. 19 A. Right. 20 MS. LAHART: Exhibit Number 12. Three pages. 21 (Thereupon, Plaintiff's Exhibit Number 12 was 22 marked for Identification.) 23 BY MS. LAHART: 24 Q. Next document in my stack is dated Wednesday, 25 January 7th, 2009. It's an e-mail that you appeared to have</p>
<p style="text-align: right;">Page 59</p> <p>1 Cole? 2 A. He was transactional counsel, pulling pieces 3 together from all aspects. I had responsibility for this. 4 He would get input from -- you've mentioned about 5 sustainability before. Whoever did that. I can't recall. 6 So he was the collector and compiler of the documents that 7 were then -- became the larger draft document that was 8 submitted to Mr. Hunzinger for his approval. 9 Q. The attachment has some -- some strike-outs. Did 10 you prepare the original draft of this document, or were you 11 commenting on a draft that had been prepared by someone else? 12 A. I prepared it, the original. 13 Q. Then who did the strike-throughs? 14 A. At this point, I cannot recall where in the back 15 and forth tennis match this was, and who provided those 16 strike-outs at this particular point in time. 17 Q. Can you tell me if it was someone on the GRU side 18 or the GREC side? 19 A. I can't. 20 Q. Okay. 21 MS. LAHART: Exhibit 11. 22 (Thereupon, Plaintiff's Exhibit Number 11 was 23 marked for Identification.) 24 BY MS. LAHART: 25 Q. Can you identify the next document?</p>	<p style="text-align: right;">Page 61</p> <p>1 been copied on. Do you have any recollection of receiving 2 this e-mail? 3 A. No direct recollection. I presume I did. 4 Q. Okay. It's an e-mail from Mr. Levine to 5 Mr. Bachmeier. "Hello, Rick. Our team has reviewed the 6 stand-by supplemental and start-up power agreement you sent 7 along." 8 So not all documents were filtered through Mr. Cole 9 before being provided to GREC. Is that correct? 10 A. Apparently this one went directly to GREC. 11 MS. LAHART: That is a three-page e-mail, a string 12 of e-mails, we'll mark Exhibit 13. 13 (Thereupon, Plaintiff's Exhibit Number 13 was 14 marked for Identification.) 15 BY MS. LAHART: 16 Q. Are you familiar with the next document? It's a 17 January 16th, 2009, e-mail. 18 A. It doesn't ring a bell, but I'm assuming I received 19 it. 20 Q. Under the heading, Low Priority, Section 12.3, 21 Availability is Still Under Discussion. 22 Do you know who was discussing that? 23 A. Well, that was Mr. Fagan. Len Fagan and myself. 24 Q. Well, it says Regan. 25 A. Yeah.</p>

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<p style="text-align: right;">Page 62</p> <p>1 Q. Is that a typo?</p> <p>2 A. I'm sure I had internal discussions with Mr. Regan</p> <p>3 and, of course, with Mr. Hunzinger who would make the final</p> <p>4 decision on anything that would be included in the document.</p> <p>5 Q. Mr. Regan says that there will be another meeting</p> <p>6 to be scheduled a week or two after we get the new pricing,</p> <p>7 and have had time to process it.</p> <p>8 Were you involved in the negotiations regarding the</p> <p>9 pricing?</p> <p>10 A. To the extent that I was at the table in the room</p> <p>11 when the subject was discussed.</p> <p>12 Q. Okay. Exhibit 13.</p> <p>13 THE COURT REPORTER: 14.</p> <p>14 (Thereupon, Plaintiff's Exhibit Number 14 was</p> <p>15 marked for Identification.)</p> <p>16 BY MS. LAHART:</p> <p>17 Q. Mr. Stanton, I apologize it's taking me so long,</p> <p>18 but there are a lot of documents, and I have to review them</p> <p>19 to remind myself why it was that I thought it was noteworthy</p> <p>20 enough to bring to your deposition.</p> <p>21 MS. WARATUKE: Was that 13 or 14?</p> <p>22 MS. BEATTY: 14.</p> <p>23 BY MS. LAHART:</p> <p>24 Q. Next one is an e-mail from Josh Levine. Subject:</p> <p>25 Update on American Renewables.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Right here.</p> <p>2 MS. BEATTY: No, the contract.</p> <p>3 A. Oh, that's I. Okay. I'm sorry. I believe it is</p> <p>4 the same.</p> <p>5 Q. Okay. If I'm reading this e-mail correctly, it</p> <p>6 seems that Mr. Bachmeier contemplates sending this to</p> <p>7 American Renewables himself. Is that how you would read it?</p> <p>8 A. It's unclear to me if that's his intention.</p> <p>9 Q. "Please let me know if you have any further</p> <p>10 suggestions by close of business Wednesday, January 21st,</p> <p>11 before I send it back to AR." That's unclear?</p> <p>12 A. Oh, I think it is. I just didn't read it well the</p> <p>13 first time. So it has been for the review of the team,</p> <p>14 including Jonathan Cole, and --</p> <p>15 MS. LAHART: Okay. So a one-page document that</p> <p>16 we'll mark Exhibit 16.</p> <p>17 (Thereupon, Plaintiff's Exhibit Number 16 was</p> <p>18 marked for Identification.)</p> <p>19 BY MS. LAHART:</p> <p>20 Q. Next document is February 2nd, 2009, from</p> <p>21 Mr. Levine. You are one of the people that is copied on</p> <p>22 this, and it references a WORD document. Can you look at the</p> <p>23 next two pages, and tell me if you recognize this document?</p> <p>24 A. I do.</p> <p>25 Q. Can you, for the record, explain what it is?</p>
<p style="text-align: right;">Page 63</p> <p>1 It would appear you were copied on this e-mail. Is</p> <p>2 that correct?</p> <p>3 A. It shows that I am copied.</p> <p>4 Q. Can you tell me what the TOC is that Mr. Levine is</p> <p>5 referring to?</p> <p>6 A. Not a clue. Oh, I scanned to the bottom. I found</p> <p>7 it.</p> <p>8 Q. Oh, table of contents.</p> <p>9 A. I found it. Yes, ma'am. It refers to the table of</p> <p>10 contents.</p> <p>11 Q. Can't slip anything past us; can they?</p> <p>12 A. A term of art.</p> <p>13 Q. Apparently so.</p> <p>14 MS. LAHART: All right. That's a four-page</p> <p>15 document. That will be Exhibit 15.</p> <p>16 (Thereupon, Plaintiff's Exhibit Number 15 was</p> <p>17 marked for Identification.)</p> <p>18 BY MS. LAHART:</p> <p>19 Q. This is an e-mail from Mr. Bachmeier to yourself</p> <p>20 and the rest of the negotiating team. It references</p> <p>21 attachments being a clean and a red-lined draft of the PPA</p> <p>22 supplemental power agreement. Is that a different agreement</p> <p>23 than this, this being Exhibit 1?</p> <p>24 A. Exhibit -- wait a minute. My stack starts with</p> <p>25 Exhibit 2.</p>	<p style="text-align: right;">Page 65</p> <p>1 A. It's a status of action items relevant to the deal.</p> <p>2 Q. Was Mr. Levine, sort of, the keeper of this</p> <p>3 document? Was he the one that updated it periodically?</p> <p>4 A. I don't have a recollection that he did it</p> <p>5 exclusively. I think he did it frequently.</p> <p>6 Q. I hear or have seen many references to gross</p> <p>7 negligence. Do you know what the issue regarding gross</p> <p>8 negligence was?</p> <p>9 A. I do not.</p> <p>10 Q. Fair enough. Item Number 12 states that Jonathan</p> <p>11 Cole added a new definition for purchaser shutdown.</p> <p>12 A. Where was that? I'm sorry.</p> <p>13 Q. Item Number 12, the contract language.</p> <p>14 A. Oh, I see. Okay.</p> <p>15 Q. Did Mr. Cole frequently make additions to the draft</p> <p>16 power purchase agreement?</p> <p>17 A. Frequently. As I mentioned before, the -- on most</p> <p>18 occasions, although not exclusively, I would forward any</p> <p>19 recommended changes to the document for Mr. Cole to be</p> <p>20 included in the larger draft document subject to Mr.</p> <p>21 Hunzinger's approval.</p> <p>22 Q. Looking through the documents that I've been</p> <p>23 provided so far, I have a lot of e-mails from Mr. Levine and</p> <p>24 quite a few from Mr. Bachmeier. Not very many from you. Do</p> <p>25 you not send a lot of e-mails compared to some of your</p>

17 (Pages 62 to 65)

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<p style="text-align: right;">Page 66</p> <p>1 colleagues?</p> <p>2 A. I have no way to compare to what my -- how many my</p> <p>3 colleagues sent.</p> <p>4 MS. LAHART: Okay. This will be a three-page</p> <p>5 exhibit marked Exhibit 17.</p> <p>6 (Thereupon, Plaintiff's Exhibit Number 17 was</p> <p>7 marked for Identification.)</p> <p>8 BY MS. LAHART:</p> <p>9 Q. And the next document in the stack appears to be</p> <p>10 redundant, for some reason. I have two copies of it. So</p> <p>11 let's skip that one.</p> <p>12 The next document I'd like to ask you about is a</p> <p>13 February 17th, 2009, e-mail from Mr. Levine. You were copied</p> <p>14 on this, correct?</p> <p>15 A. Apparently so. I see my name.</p> <p>16 MS. LAHART: Four-page document we'll mark Exhibit</p> <p>17 18.</p> <p>18 THE WITNESS: I have -- which of the four pages?</p> <p>19 MS. LAHART: It's a two-page e-mail, and then a</p> <p>20 two-page chart.</p> <p>21 THE WITNESS: I -- is this -- then I have redundant</p> <p>22 again? I have one, two, three, four pages of charts.</p> <p>23 MS. LAHART: But I think the last two are the same.</p> <p>24 They both say updated on February 17th, 2009.</p> <p>25 THE WITNESS: Yes. So those last two are</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I do not.</p> <p>2 Q. This indicates you were in attendance at the</p> <p>3 meetings. Do you recall being in attendance?</p> <p>4 A. I'm sure I was. I don't positively recall. I'd</p> <p>5 have to check my diary to be sure, but I suspect I was.</p> <p>6 Q. Bottom of Page 2, it states as the discussion went</p> <p>7 on, GRU and AR increasingly focused on the non-escalating</p> <p>8 price option. Late in the afternoon, the parties split up to</p> <p>9 caucus. Once the parties --</p> <p>10 A. I'm sorry. Where on --</p> <p>11 Q. Bottom of Page 2.</p> <p>12 A. I see.</p> <p>13 Q. Do you recall participating in those discussions?</p> <p>14 A. I remember being at the negotiating table.</p> <p>15 Q. Did you participate, or were you just sitting at</p> <p>16 the table?</p> <p>17 A. I do not have a recollection of making a specific</p> <p>18 comment.</p> <p>19 Q. Mr. Stanton, I'm going to hand you what I think is</p> <p>20 your diary from March 2nd and March 3rd.</p> <p>21 A. Okay.</p> <p>22 Q. Can you identify that document?</p> <p>23 A. That's what it is. That's a copy.</p> <p>24 Q. That's your handwriting?</p> <p>25 A. It is.</p>
<p style="text-align: right;">Page 67</p> <p>1 redundant.</p> <p>2 MS. LAHART: Correct.</p> <p>3 (Thereupon, Plaintiff's Exhibit Number 18 was</p> <p>4 marked for Identification.)</p> <p>5 MR. DEE: Marcy, I'm sorry. On this last exhibit,</p> <p>6 what was the date of the e-mail?</p> <p>7 MS. LAHART: Date of the e-mail is February 17th,</p> <p>8 2009. It's also the date of the attached chart.</p> <p>9 MS. WARATUKE: She's got it as 18.</p> <p>10 MR. DEE: This one should be 18. I just had a</p> <p>11 redundant copy of 17. That's why I was getting</p> <p>12 confused.</p> <p>13 MS. LAHART: Apparently so did I.</p> <p>14 BY MS. LAHART:</p> <p>15 Q. Mr. Stanton, did you ever have any individual</p> <p>16 interactions with the members of the city commission</p> <p>17 concerning this power purchase agreement?</p> <p>18 A. No.</p> <p>19 Q. Did you ever attend any meetings with Mr. Hunzinger</p> <p>20 with the commissioners?</p> <p>21 A. Not to my recollection.</p> <p>22 Q. Looking at a document entitled Summary of March</p> <p>23 2nd-3rd Meeting Between GRU and American Renewables in</p> <p>24 Gainesville, Florida. It's addressed to Skip.</p> <p>25 Do you know who wrote this document?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. I can't read your handwriting. Could you read into</p> <p>2 the record what your notes were from those two days?</p> <p>3 A. Okay. The first note, March 2nd, says, "CC I ready</p> <p>4 for CC OP yesterday, but no room for system."</p> <p>5 Q. What does that mean?</p> <p>6 A. Okay. We were ready to do some test running of</p> <p>7 Combined Cycle Number 1 at the John R. Kelly Power Plant, but</p> <p>8 we did not have room to put the power on the system. The</p> <p>9 -- at 9:00 a.m., I say, "Get plane to Gainesville. Bags were</p> <p>10 there."</p> <p>11 Q. Were you out of town the day before this?</p> <p>12 A. That would suggest I was. Do you happen to have a</p> <p>13 previous page as well?</p> <p>14 MS. BEATTY: No.</p> <p>15 BY MS. LAHART:</p> <p>16 Q. I don't know if I do or not.</p> <p>17 A. That certainly would suggest that, but I don't</p> <p>18 remember where I was or what I was doing at that time.</p> <p>19 MS. LAHART: Unfortunately, on my copy, the dates</p> <p>20 are --</p> <p>21 MS. BEATTY: This is March 2nd.</p> <p>22 MS. LAHART: I'll have to take your word for it.</p> <p>23 There's no dates on these.</p> <p>24 A. So apparently I had made a phone call or</p> <p>25 communicated somehow about Combined Cycle Unit Number 1.</p>

18 (Pages 66 to 69)

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<p style="text-align: right;">Page 70</p> <p>1 Find out we were ready to run it, but had no place to put the 2 power. I apparently was out of town, and arrived back at 3 Gainesville, and found that my bags were there. So. 4 Q. Okay. 5 A. I now remember where I was. 6 Q. Do tell. 7 A. I was skiing in Colorado, and got back as far as 8 Atlanta, and ended up stuck in Atlanta overnight because of a 9 weather situation. So I was late getting back to the office 10 the next day, and fortunately, my bags got there. 11 Q. I'm glad to hear that. 12 A. So that's the story behind that. 13 Q. Okay. 14 A. So 11:00 a.m. in office. Under that, I say, "EMI 15 slash AR shows up." 16 Q. Well, it's about time they got there. Huh? What's 17 it say under that? 18 A. It says ditto marks under EMI and AR. Really need 19 to get this going for -- and it says benefits and -- 20 Q. Stimulus benefits? 21 A. Stimulus benefits. Very good. You can read my 22 handwriting better than me. They -- and I say they prefer 23 ITC or grant over PTC. 24 Q. What does that mean? 25 A. That they prefer the investment tax credit or a</p>	<p style="text-align: right;">Page 72</p> <p>1 first year cost equals \$110 in 2013 -- " 2 Q. Uh-huh. 3 A. " -- with \$3.15 being variable, plus escalation, 4 and requirement, try to get \$110. Try to get to \$110." 5 Q. Whose requirement was that? 6 A. That was a goal that we at -- we had set. 7 Q. Who's we? 8 A. We -- the negotiating team working under the 9 direction of Mr. Hunzinger. 10 Q. So that was GRU's goal? 11 A. Yes. 12 Q. And what's it say in the margin? 13 A. Yeah. There's -- my sister called. 14 Q. Oh. 15 A. She's still out in Colorado, and my friend, who was 16 skiing with us out there, he's taken to the emergency room. 17 He had some trouble breathing. So he's being moved to the 18 Denver Hospital. He's okay, by the way. 19 Q. I'm glad to hear that. Let's go to the next day. 20 and you don't have to tell me what the 6:00 a.m. and 7:30 21 a.m. entries are, unless they actually relate to GREC. But 22 starting at 8:30. 23 A. Yes. 24 Q. What does that say? 25 A. GREC reconvene.</p>
<p style="text-align: right;">Page 71</p> <p>1 grant overtaking a production tax credit. 2 Q. Okay. 3 A. Okay. They state that they will have the 4 Nacogdoches EPC contract signed this week. 5 Q. What's the EPC contract? 6 A. Engineer, procure, and construct. 7 Q. Okay. Who was that contract with? Do you recall? 8 A. I believe it was with Zachary. Then I make a 9 comment, "Looks like their lower price is mostly due to the 10 stimulus effect. Not much off their plate." 11 Q. What does that mean? 12 A. It pretty much means what it says. 13 Q. Their lower price as compared to what, Mr. Stanton? 14 A. To their previous price. 15 Q. Previous price for what? 16 A. For the -- and I -- this, in here, would be the 17 non-fuel energy charge, I believe. It probably -- the 18 non-fuel, and relates back to the -- some of the variable O&M 19 that would be included in the -- with the fuel cost and the 20 variable pricing. So the overall pricing. 21 Q. Okay. 22 A. So basically, here I'm saying they're coming in, 23 and telling us the price is going down, but my opinion is 24 it's mostly because of the stimulus effect, nothing off of 25 their profit. And then I make a note, "GRU might say yes to</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. Okay. 2 A. And then it says, "\$40 fixed energy charge is \$90 3 million of plant EPC," parentheses, "not doable and not 4 financeable." Then I have the -- 5 Q. What does that mean, "not doable and not 6 financeable"? Is that what GREC was telling you, or are 7 those your thoughts? 8 A. Those -- those appear to be what GREC was telling 9 us, because we were not financing it. So I -- 10 Q. Okay. 11 A. Then there is a notation here with the dollar 12 amount, "\$85.77 rate," with an arrow going to it saying, 13 "09," and then a paren "by Josh, not an offer." Then I have 14 above there a number, and a half paren of \$61.75, and I don't 15 know what that refers to. Then I say, "Josh, GR," you know, 16 parentheses, indicating that he said something to the effect, 17 "GRU is looking at \$3 less than they're asking for in 18 December." So. 19 Q. And what's it say after that? 20 A. "Ed's GAP." 21 Q. What does that mean? 22 A. Ed Regan had analyzed the pricing, and felt we 23 needed to close the \$3 cap -- gap between what we needed and 24 what they had. "Jim," referring to Jim Gordon, "can meet and 25 come off about \$2.50, not the whole three bucks." Means</p>

19 (Pages 70 to 73)

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<p style="text-align: right;">Page 74</p> <p>1 raising \$12 million. And then I've got the Number \$71 and 2 looks like 75 cents, and bracketed \$50 fixed; 21.75 is fixed 3 O&M; 3.15 variable; and down below, there are the words "tax 4 and fuel" with no dollar amounts, and then in the cloud to 5 the right, I have \$120.70 in 2013. Then it says Bob's 6 summary. 7 Q. And that would be Mr. Hunzinger? 8 A. It would. "Concern is for average. GRU will look 9 at our models and see what happens. Political 10 considerations." Arrow back to commission. 11 Q. Do you know what that means? 12 A. That means Mr. Hunzinger was going to go back to 13 the -- and discuss the purchase power agreement with the city 14 commission. 15 Q. Do you know what specifically about it he was going 16 to discuss with them? 17 A. No. Not from this note. It doesn't ring a 18 specific bell. 19 Q. Do you recall what was meant by political 20 considerations? What those considerations were? 21 A. Not from this. 22 Q. Do you recall? 23 A. Too long ago. 24 Q. Do you recall from anything else? 25 A. No.</p>	<p style="text-align: right;">Page 76</p> <p>1 MS. LAHART: That would be -- 2 THE WITNESS: We were discussing this earlier. 3 MS. LAHART: Yes, we were. And I am just looking 4 over that to see if I had anymore questions on it. That 5 would be Exhibit 18, the calendar? 6 THE COURT REPORTER: 19. 7 (Thereupon, Plaintiff's Exhibit Number 19 was 8 marked for Identification.) 9 THE WITNESS: And then these pages are just 10 erroneous? 11 MS. LAHART: No. Those would be Exhibit 20. As I 12 said, I'm looking over them to see if I had anything 13 else I wanted to ask you about. 14 THE WITNESS: Okay. 15 BY MS. LAHART: 16 Q. Can you tell me what Ed Regan's role was in 17 negotiating the PPA? 18 A. He was one of a member of a team that made 19 recommendations to Mr. Hunzinger for his decision. 20 Q. Yes. I get that. Could you tell me specifically 21 what his role is? Did he have any -- were there any subjects 22 that were, sort of, his bailiwick that he focused on? 23 A. We all were involved in all of it, but, you know, 24 as I focused more on operational issues, he focused more on 25 pricing issues.</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. Okay. 2 A. And then I've got run. Looks like traps, but I 3 don't know why I wrote traps. But it says with the RECs, 4 meaning renewable energy credit and carbon credits. So it's 5 probably running financial models with and without those in 6 there. And then there's -- I've got something attributed to 7 Ed Regan. "Need to discuss with potential customers." 8 Q. Does that refer to customers that would be buying 9 power from GRU? 10 A. It does. And the rest of the document doesn't 11 refer to GREC. 12 Q. Okay. Well, I don't -- 13 A. But I'm happy to speak to it if you'd like. 14 Q. No. I'm really not trying to intrude into your 15 personal life, Mr. Stanton. 16 A. Well, it's not personal life here. It's technical 17 problems with power plants. 18 Q. I have limited capacity on my hard drive. Let's 19 stick to one power plant at a time; okay? 20 A. Yes, ma'am. Is this an exhibit? Do I hand it to 21 her? 22 MS. WARATUKE: Can we just make it for purposes of 23 completeness -- 24 MS. LAHART: Sure. 25 MS. WARATUKE: -- so we can refer to it?</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Okay. Was he an employee of GRU at the time that 2 this -- 3 A. Yes. 4 Q. -- this agreement was negotiated? And he's no 5 longer an employee? 6 A. That is correct. He is retired. 7 Q. But continues to work as a consultant? 8 A. At this particular time, I don't know if he's 9 working as a consultant or not. I know he has worked as a 10 consultant, but I don't have knowledge to be -- what the term 11 of that contract is, whether it's still in force or not. 12 Q. The meeting notes, whoever wrote them, stated that 13 they're largely from memory. How were the meetings between 14 GRU and American Renewables typically recorded? Did you 15 agree at the beginning of the meeting so and so is going to 16 take minutes at this time, or -- 17 A. No. 18 Q. -- how did that work? 19 A. Well, as previously discussed, Rick Bachmeier took 20 a number of minutes. 21 Q. Uh-huh. 22 A. I don't recall him being specifically assigned to 23 do it. On other occasions, other people produced meeting 24 minutes, and on many occasions, there were only personal 25 notes taken.</p>

20 (Pages 74 to 77)

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<p style="text-align: right;">Page 78</p> <p>1 MS. LAHART: Okay. Ms. Fleck will mark the summary 2 of March 2nd and 3rd meeting as Exhibit 20. 3 MS. WARATUKE: The calendar is 19. 4 MS. LAHART: Exhibit 20. It's a three-page 5 document. 6 MR. DEE: Oh, I'm sorry. Okay. I didn't get the 7 calendar. 8 (Thereupon, Plaintiff's Exhibit Number 20 was 9 marked for Identification.) 10 MS. LAHART: Mr. Dee, I only have one copy of the 11 calendar, but you're welcome to look at it, if you'd 12 like. 13 BY MS. LAHART: 14 Q. Good news. There's only a couple left. 15 The next document in my stack is an April 14th, 16 2009, e-mail from Mr. Regan to Roger Austin. Who is Roger 17 Austin? 18 A. He was his staff assistant. 19 Q. Okay. And included in that chain of e-mails is an 20 e-mail from Jonathan Cole to Mr. Levine, and several other 21 people, including yourself. Did you receive this e-mail? 22 A. I'm sure I did. 23 Q. Mr. Cole states, "As discussed in our conference 24 call on Wednesday, we decided to circulate the draft power 25 purchase agreement to update it from December 23rd -- the</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Would you say that again, please? 2 MS. LAHART: Madam Court Reporter, would read the 3 question? 4 (Thereupon, the court reporter read back the 5 previous question.) 6 A. I cannot say for sure at every meeting that every 7 person gave input. 8 Q. At most meetings, did most people present give 9 input? 10 A. Yes. 11 MS. LAHART: The two-page document will be Exhibit 12 21. 13 (Thereupon, Plaintiff's Exhibit Number 21 was 14 marked for Identification.) 15 BY MS. LAHART: 16 Q. Mr. Stanton, I've been told that there was a 50 17 percent increase in the annual payment related to capital 18 costs above what was contemplated in the RFP. Can you tell 19 me if that's true or not? 20 A. I cannot vouch for what you've been told. 21 Q. Can you vouch for the veracity of the statement: 22 Is there a 50 percent increase in the annual payment? 23 A. I cannot do that without going back and reviewing 24 documents. 25 Q. Okay. Did you participate in the discussions</p>
<p style="text-align: right;">Page 79</p> <p>1 December 23rd draft circulated by American Renewables. Josh 2 and I have discussed this draft for purchases -- purposes of 3 conforming changes and reflecting group discussions, but not 4 for purposes of negotiation, which should take place amongst 5 the larger group." 6 MS. WARATUKE: Can I just make a note, because I'm 7 not sure she picked that up correctly. It was 8 conforming as opposed to confirming changes. 9 MS. LAHART: Did I double stutter? 10 MS. WARATUKE: A little bit. 11 MS. LAHART: I'm sorry. 12 MS. WARATUKE: That's okay. 13 BY MS. LAHART: 14 Q. When you said negotiations should take place 15 amongst the larger group, is he referring to both teams? 16 GREC and GRU's folks? Do you know? 17 A. I'm not sure I can speak for Mr. Cole, whether he 18 is speaking of the larger GRU group or if the larger group 19 with both counterparties. 20 Q. What did you think he meant when you received this 21 e-mail? 22 A. I have no recollection. 23 Q. When these group meetings in which negotiations 24 took place or were being held, did all of the members of the 25 team give input?</p>	<p style="text-align: right;">Page 81</p> <p>1 regarding increasing the term of the power purchase 2 agreement? 3 A. I participated to the extent that I was at the 4 negotiating table when the issue was under discussion. 5 Q. Did you have a role in negotiating that particular 6 provision? 7 A. I did not. 8 Q. Did you make any recommendations to Mr. Hunzinger 9 regarding increasing the terms from 20 to 30 years? 10 A. No. 11 Q. Did you make any recommendations to Mr. Hunzinger 12 regarding removing the blackout (sic) -- back-out clause? 13 A. No. 14 Q. Did you make any recommendations to him that the 15 team should negotiate with GREC instead of Nacogdoches? 16 A. No. 17 Q. Did you make any recommendation to Mr. Hunzinger 18 regarding restructuring from a capacity charge to a non-fuel 19 energy charge? 20 A. No. 21 Q. What recommendations did you make to Mr. Hunzinger? 22 A. My recommendations were related to the operation, 23 maintenance, start-up, and construction as indicated where I 24 highlighted the document. 25 Q. Did you ever e-mail Mr. Hunzinger directly</p>

21 (Pages 78 to 81)

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<p style="text-align: right;">Page 82</p> <p>1 concerning those things, or did you always go through Mr. 2 Cole? 3 A. My recollection is that I most frequently went 4 through Mr. Cole, although I may have had some direct back 5 and forth with Len Fagan. 6 Q. Did you ever have any direct back and forth with 7 James Gordon? 8 A. Not on any contract issues. 9 Q. How about with Mr. Levine? 10 A. Yes. 11 Q. Regarding what matters? 12 A. Many and sundry. I can't recall them all right 13 now. 14 Q. And was this by phone? Face-to-face? 15 A. Through phone, face-to-face, and e-mail 16 communication. 17 Q. Did you have any direct communication with Ari 18 Mervis regarding the contract? 19 A. Yes. Limited. 20 Q. What was it limited to? 21 A. It was limited in, not context, but limited in 22 timing. He was only involved with the project early on, and 23 then transitioning to Josh Levine. 24 MS. LAHART: Can I have a few minutes to -- 25 MS. WARATUKE: Sure.</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. What compliance? 2 A. NERC, North American Energy Reliability Council. 3 Q. Does Mr. Regan report directly to Mr. Hunzinger? 4 A. Did he? 5 Q. Does he? 6 A. He does not. 7 Q. I guess I should say did he, since he's no longer 8 an employee. 9 A. Yes, he did. 10 Q. And do you report directly to Mr. Hunzinger as 11 well? 12 A. I do. 13 MS. LAHART: No further questions. 14 MS. WARATUKE: I don't have anything. 15 MR. DEE: I have no questions. Thank you. 16 MS. WARATUKE: We'll read. 17 (Thereupon, the deposition concluded.) 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 83</p> <p>1 MS. LAHART: -- collect my thoughts? 2 (Thereupon, there was a brief recess.) 3 MS. LAHART: Just a couple more questions, and 4 they're going to be easy ones. 5 BY MS. LAHART: 6 Q. Can you tell me who Mr. Bachmeier reports to? Who 7 his supervisor is? 8 A. Currently, he reports directly to Mr. Hunzinger. 9 Q. How about Mr. Crawford? 10 A. Reports to Jennifer Hunt, CFO. 11 Q. You said that Mr. Bachmeier currently reports to 12 Hunzinger. Has that changed, or has he always reported to 13 Mr. Hunzinger? 14 A. He has not always reported to Mr. Hunzinger. 15 Q. To whom did he report prior to reporting to Mr. 16 Hunzinger? 17 A. Me. 18 Q. And how did that change come about? 19 A. It came about as a reorganization within GRU. 20 Prior to that, Mr. Bachmeier had reported to Mr. Regan, and 21 that function of generation planning was transferred from 22 strategic planning to energy supply, and then Mr. Bachmeier 23 later was given the position of NERC compliance officer 24 directly reporting to the general manager for the purposes of 25 corporate governance.</p>	<p style="text-align: right;">Page 85</p> <p>1 ERRATA SHEET 2 3 This is to certify that I, JOHN STANTON, have 4 read the foregoing transcription of my testimony in Re: 5 GAINESVILLE CITIZENS CARE, INC., vs. CITY OF GAINESVILLE. 6 d/b/a GAINESVILLE REGIONAL UTILITIES, and GAINESVILLE 7 RENEWABLE ENERGY CENTER, LLC, Case No: 01-2012-CA-001346. 8 given on November 7, 2012, and find the same to be a true and 9 correct transcription of said testimony with the following 10 changes (if any): 11 PAGE LINE SHOULD READ: 12 13 14 15 16 17 18 19 20 21 22 _____ 23 _____ 24 25</p>

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<p>1 CERTIFICATE OF OATH</p> <p>2</p> <p>3 STATE OF FLORIDA)</p> <p>4 COUNTY OF ALACHUA)</p> <p>5</p> <p>6 I, the undersigned authority, certify that the</p> <p>7 witness, JOHN STANTON, personally appeared before me and was</p> <p>8 duly sworn.</p> <p>9</p> <p>10 WITNESS my hand and official seal this ____ day</p> <p>11 of November, 2012.</p> <p>12</p> <p>13</p> <p>14</p> <p>15 SHAWN E. FLECK, RPR</p> <p>16 Notary Public</p> <p>17 State of Florida</p> <p>18 Personally Known _____</p> <p>19 Or Produced Identification _____</p> <p>20 Type of Identification Produced _____</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 86</p>
<p>1 REPORTER'S DEPOSITION CERTIFICATE</p> <p>2</p> <p>3 STATE OF FLORIDA)</p> <p>4 COUNTY OF ALACHUA)</p> <p>5</p> <p>6 I, SHAWN E. FLECK, RPR, certify that I was</p> <p>7 authorized to and did stenographically report the deposition</p> <p>8 of JOHN STANTON; that a review of the transcript was</p> <p>9 requested; and that the transcript is a true and complete</p> <p>10 record of my stenographic notes.</p> <p>11 I further certify that I am not a relative,</p> <p>12 employee, attorney, or counsel of any of the parties, nor am</p> <p>13 I a relative or employee of any of the parties' attorney or</p> <p>14 counsel connected with the action, nor am I financially</p> <p>15 interested in the action.</p> <p>16 Dated this ____ day of November, 2012.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 SHAWN E. FLECK, RPR</p> <p>22 Notary Public</p> <p>23 State of Florida</p> <p>24</p> <p>25</p>	<p>Page 87</p>

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