From: Bielarski, Edward J
To: Cottle, Lisa A.
Cc: Brown, Thomas R; Locke, Justin M
Subject: Re: Withholding issue
Date: Sunday, March 19, 2017 9:35:01 AM

Lisa,

Although it may close the MOU negotiation there is an issue in that I believe that we'll continue in the arbitration until the MOU is approved by all. It might take until April 21st to get the commission approval. We could get summary judgement before that which may muck things up one way or another. Stay tuned.

Ed B

Sent from my iPad

> On Mar 18, 2017, at 8:06 PM, Cottle, Lisa A. <LCottle@winston.com> wrote:
>
> Sounds good thank you.
>
>> On Mar 18, 2017, at 4:16 PM, Bielarski, Edward J <BielarskiEJ@gru.com> wrote:
>>
>> Lisa,
>>
>> I talked with Jim for almost 2 hours today. I think we are at the point that GREC will allow GRU to withhold monies to the extent we do under current practices (no dollar limitations), but they won't go beyond allowing GRU to retain more than the $ 7.2 million if we close. I still think it's a win. Jim will have his attorneys review Monday. I think this might close the MOU.
>>
>> Thanks for your help.
>>
>> Ed B
>>
>> Sent from my iPad
>>
>>> On Mar 17, 2017, at 8:57 PM, Cottle, Lisa A. <LCottle@winston.com> wrote:
>>>
>>> Ed, attached is draft language for your consideration. Feel free to call me at 415-283-5538 over the weekend. Or email me if you want me to call you.
>>>
>>> Lisa
>>>
>>> -----Original Message-----
>>> From: Bielarski, Edward J [mailto:BielarskiEJ@gru.com]
>>> Sent: Friday, March 17, 2017 7:54 AM
>>> To: Cottle, Lisa A. <LCottle@winston.com>
>>> Subject: RE: Withholding issue
>>>
>>> Lisa,
>>>
>>> I'd appreciate a draft of some language concerning this before Monday if you would. I don't want to wait until Monday to think about this stuff. I'll consult with Nicole, but I need to think about options and language. I've attached the latest MOU I sent to Jim.
>>>
>>>
>>> Edward Bielarski Jr
>>> General Manager

>>> Gainesville Regional Utilities
>>>
>>> -----Original Message-----
>>> From: Shalley, Nicolle M.
>>> Sent: Friday, March 17, 2017 9:20 AM
>>> To: Bielarski, Edward J
>>> Cc: Lisa A. Cottle
>>> Subject: Re: Withholding issue
>>>
>>> Hi Ed - I'm taking today and this weekend off, as my son is in town for Spring Break, but I'm still giving this some thought and will work on language on Monday.
>>>
>>> Nicolle M. Shalley
>>> City Attorney
>>> City of Gainesville
>>> 352-393-8747 (office phone)
>>>
>>>> On Mar 17, 2017, at 12:54 AM, Bielarski, Edward J <BielarskiEJ@gru.com> wrote:
>>>>
>>>> Nicole/Lisa,
>>>>
>>>> I think the solution to the provision whereby GREC will allow GRU to retain the $ 7.1 mm as of the closing, not not allow withholding during the interim and GRU's position that we are allowed to withhold and retain the balance withheld as of closing along with the $ 10 mm payment for misreporting of Available Energy is this:
>>>>
>>>> Allow GRU is continue to withhold based on i) no retroactive application of claims within the Dispute, ii) the concept of claims within the Dispute in which funds have already been withheld and iii) math type errors in billings.
>>>>
>>>> Cap the level to which GREC will allow the withholdings as of the time of closing to be retained at $ 10 million (or whatever appropriate amount) Obviously, GRU will be allowed to make claims to whatever level under the PPA during that time, but the recovery as of the time of a Closing would be limited to $ 10 million (or whatever appropriate amount). This means that GREC would not have to make a payout or have a credit on the purchase price at closing. It also means that GRU would not be forfeiting its rights under the PPA. It also means that the settlement would be capped.
>>>>
>>>> Thoughts?
>>>>
>>>>
>>>> Sent from my iPad
>>>
>>> _____
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>>> <MOU - GRU purchase of biomass facility_(8813050)_(4).DOCX>