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UAB Statement 1

I've researched, asked questions, and pondered whether we should buy out this purchase power agreement with GREC and with it own a technologically antiquated biomass plant in the process. This puzzle has seemingly been simplified by the prospect of a financial arbitrage that will save rate payers 8-10% off their electric price despite a $750 million purchase price.

Many justifications for and against this purchase were brought to my attention. Those justifications against were holding GREC accountable, further suing GREC for fraud, waiting until the arbitration with GREC is complete, waiting until tax considerations are ironed out, purchase price is too high, and savings for GREC would not show up on bills. Justifications in the affirmative were 8-10 percent savings, urgency because this may be only chance to ameliorate the outlandishly high cost of the purchase power agreement, bond prices may go up, and every day we stay in the contract we are spending close to 200k.

To come to a decision I've used three filters: trustworthiness, my own expertise and analysis, and what the rate payers would be saving in the final outcome and is it enough.

Using these filters, I've come to the following conclusions on justifications:

In a perfect world, the tactics used by GREC to gain the contract from the City of Gainesville would be punished through an easy exit of the Power Purchase Agreement, but GREC isn't completely culpable. Despite many warnings of the cost of this project from both citizens and experts, including myself, and the complete lack of transparency of terms in the contract, such as back out provisions, the City Commission at that time ignored the warnings and continued headlong into this contract. Now our choices are very limited, and it would be a long shot to actually exit the PPA through legal means. As I said in a meeting before, I would not support a crusade where the ratepayers pay for the luxury of righteousness despite the outcome having little chance of success.

Right now, because arbitration is not settled, consequences based on the outcome can affect GREC to the negative in a large way. If GRU loses, we keep the status quotient, so as much as I hate the status quotient, GRU has all the upside on a win and really no downside other than the legal costs incurred. There is a slim chance that arbitration could bring the end of the PPA due to breach of contract and a bigger chance that the arbitrator would rule in our favor for future accounting of what an outage means. Of course GREC has a different interpretation of the contract. Either side could win on this point. With this type of uncertainty, both sides should choose to mitigate their risk of an unfavorable outcome and because of this, a proposal comes before us.

The initial Goldman Sachs report indicated that based on assuming GREC's borrowing costs and subtracting some of the value of what remains of their government grant, what they should accept for a buyout would be between $540-719 million. According to an updated analysis of assumptions, they should be willing to accept $720 - $819 million, but the updated analysis assumes their cost of capital is much less expensive than the initial analysis, hence a justification of a much higher offering price. This analysis was done internally, not by Goldman Sachs.

It does seem that bond prices are on an upward trajectory, so the cost of capital may indeed rise above what is economically viable. However, GREC will need to refinance in two years and their cost of capital should rise just as ours has, thereby incentivizing a purchase at somewhere near to current value.

Finally, I must use the filter of trustworthiness. GREC has shown itself to be almost completely untrustworthy in its dealings. It gravely concerns me that GREC is writing the definitive purchase contract. What mitigates that concern to some degree is the promise that this contract will be transparent at every phase of the negotiation. On the flip side, I do trust the current leadership of GRU. However, because of their passion for some relief to the customers, which has been measured at up to 10% savings, they may be leaving too much on the table. It is also notable that passions on those against this MOU for justice may have tipped the scales such that no deal other than complete capitulation by GREC would be acceptable. To make a good decision, we must operate independently of these passions.

With all this taken into consideration, I've come to the following conclusions. A sense of urgency does indeed exist from a risk mitigation standpoint from both sides. Once the arbitration outcome is determined, the consequences could be severe to GREC . Because of the slim chance, estimated at 10% by Mr. Bielarski, that the arbitrator finds for a material breach of contract, the contract may be abrogated which means we can exit the PPA with no cost to us which would equal 1.3 billion dollars in current dollars, but it's only a 10% chance, so the expected value would be $134,445,295. Furthermore we have a much stronger case of winning in arbitration what the definition of an outage means. If the arbitrator rules in our favor we would win not only the 7.4 million, but an additional 9 million in back incorrect invoices and five million per year after that. The net present value of this at a 3.5% discount rate is approximately $106,000,000. Because Mr. Bielarski assumes this is a coin flip a 50% chance of winning this brings an expected value of $53 million dollars of benefit to GRU. This means the stakes are catastrophic to GREC in a worst case scenario and very large in the second case scenario. It behooves both sides to come to a settlement of the PPA through a buyout of the PPA by GRU

Despite there being a sense of urgency, we still have a bit of time for negotiation before the outcome of arbitration. With this in mind, it is my recommendation that the Gainesville City Commission approve and sign the MOU and all of its terms save two. The price must be reduced to $675 million and the City of Gainesville writes the definitive purchase agreement. This reduction will fall within the initial Goldman Sachs analysis and also takes into account the cost of risk mitigation of the worst case scenario and the second worst case scenario for GREC. This is my breakpoint price. I actually think with more negotiation we could even get below that price, but the time for those negotiations may cost us more than the savings are worth. I understand that by changing the terms we are taking a risk that this deal won't be done, but it is my firm belief that GREC has room to come down because risk mitigation of the arbitration was not taken into account by either party as far as I can tell. As has been said before, the people at GREC are tough negotiators, perhaps the toughest, and they have already proven themselves untrustworthy in many ways. They've fleeced us once. I'd like to have a little hair left on the second go around. I think the risk is worth taking because this is not a binary decision. As the saying goes, there is more than one way to skin a cat.