

STATE OF FLORIDA

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DIVISION OF EXTERNAL AFFAIRS
CHARLES H. HILL
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(850) 413-6800

Public Service Commission

November 4, 2002

VIA ELECTRONIC FILING

The Honorable Magalie R. Salas
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: Docket No. ER03-27-000, Tampa Electric Company

Dear Ms. Salas:

Forwarded herewith are a Motion to Intervene Out-of-Time and Comments of the Florida Public Service Commission in the above-captioned proceeding. Rosanne Gervasi is the lead contact on this matter. She may be reached at (850) 413-6224.

Sincerely,

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

CBM:tys

cc: Office of General Counsel (Gervasi)
Division of Economic Regulation (Haff, E. Draper)

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Tampa Electric Company

) Docket No. ER03-27-000

**FLORIDA PUBLIC SERVICE COMMISSION'S
MOTION TO INTERVENE OUT-OF-TIME**

The matter in this proceeding relates to a transaction-specific service agreement between Tampa Electric Company (Tampa Electric) and Cargill Fertilizer, Inc. (Cargill), which calls for non-firm point-to-point transmission service to Cargill under Tampa Electric's open access transmission tariff. The Florida Public Service Commission (FPSC) is a state public utility commission whose interests are not adequately represented by any other party in the proceeding. Pursuant to Chapters 350, 366, and 403, Florida Statutes, the FPSC has the authority to regulate electric utilities within the State of Florida and to exercise the police power of the state for the protection of the public welfare. Section 366.015, Florida Statutes, encourages participation by the FPSC in Federal agencies' proceedings that affect those utilities over which the FPSC has primary regulatory jurisdiction. Tampa Electric is a utility regulated by the FPSC.

This intervention is filed out-of-time because the publicly noticed meeting for the FPSC to decide the matter, Internal Affairs Conference, was held on November 4, 2002, five days after the end of the comment period established in this docket. This intervention will not prejudice any other party to this docket. No disruption of this proceeding will result by permitting the intervention out-of-time, nor will any prejudice or burden be placed on any party by permitting the intervention out-of-time.

WHEREFORE, the FPSC initially asserts that it has direct, material, and substantial interest in this proceeding that cannot be adequately represented by any other party. Accordingly, the FPSC respectfully has filed this motion to intervene.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

/ s /

Harold McLean
General Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

DATED: November 4, 2002

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Tampa Electric Company

) Docket No. ER03-27-000

COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

The Florida Public Service Commission (FPSC) files these limited comments in support of the transaction-specific service agreement filed by Tampa Electric Company (Tampa Electric) for non-firm point-to-point transmission service to Cargill Fertilizer, Inc. (Cargill) under Tampa Electric's open access transmission tariff (OATT). Tampa Electric is an electric utility that serves approximately 582,358 retail customers in Hillsborough County and in parts of other counties surrounding Hillsborough County, Florida. Tampa Electric is subject to the regulatory authority of the FPSC under Chapter 366, Florida Statutes.

Tampa Electric's service agreement is intended to facilitate self-service wheeling of Cargill-generated power to Cargill's own retail load, pursuant to an FPSC directive under Florida law. Section 366.051 of the Florida Statutes, which pertains to regulation of cogenerators and small power producers, provides as follows with reference to self-service wheeling:

Public utilities shall provide transmission or distribution service to enable a retail customer to transmit electrical power generated by the customer at one location to the customer's facilities at another location, if the Commission finds that the provision of this service, and the charges, terms, and other conditions associated with the provision of this service, are not likely to result in higher cost electric service to the utility's general body of retail and wholesale customers or adversely affect the adequacy or reliability of electric service to all customers.

The FPSC administers this statute under the substantially similar language of Section 25-17.0883, Florida Administrative Code.

Cargill operates two fertilizer production plants and one phosphate mine that are interconnected to Tampa Electric's transmission system, and that receive interruptible retail service from Tampa Electric. Each of the fertilizer production plants has associated cogeneration facilities on-site. In August, 2000, Cargill petitioned the FPSC for an experimental program of self-service wheeling on the Tampa Electric system whereby Cargill could use excess energy produced at one location to serve its load at another location. By order issued September 6, 2000,¹ in FPSC Docket No. 001048-EQ, the FPSC granted Cargill's petition on an experimental basis for a period of two years or until Tampa Electric's next full (retail) rate case, whichever came first. The FPSC noted in its order that Tampa Electric had no objection to providing the self-service wheeling on an experimental basis under its OATT. Tampa Electric provided the service under the OATT pursuant to a standard umbrella service agreement for non-firm point-to-point transmission service.

The experimental program of self-service wheeling for Cargill expired in September, 2002. By Order No. PSC-02-1451-PCO-EQ, issued October 21, 2002, in FPSC Docket No. 020898-EQ, the FPSC has ordered the self-service wheeling to continue on an interim basis, pending a final decision after hearing on the merits of the service under the statutory standards.

Tampa Electric has represented that the standard umbrella service agreement under its OATT was not a completely satisfactory vehicle for providing self-service wheeling, and that any continuation of the program should occur under a transaction-specific service agreement that better reflects the circumstances of the service. More specifically, Tampa Electric has represented that the

¹Order No. PSC-00-1596-TRF-EQ, In re: Petition by Cargill Fertilizer, Inc. to engage in a pilot project for self service wheeling to, from, and between points within Tampa Electric Company's service area.

tendered transaction-specific service agreement reflects the fact that certain of the ancillary services under the OATT are subsumed within the bundled retail services that Cargill will continue to take from Tampa Electric at the load sites, and that certain departures from strict application of Generation to Schedule Imbalance (GSI) Service under OATT Schedule 4A are necessary to fit the circumstances of retail self-service wheeling and the provisions of the applicable retail rate schedules.

According to Tampa Electric, if the Commission approves Tampa Electric's filing, Tampa Electric will not be out of compliance with its OATT as a result of the FPSC's decision to allow the self-service wheeling program to continue on an interim basis, pending a hearing on the matter, or as a result of a potential ruling by the FPSC, after a hearing on the matter, to make the program permanent under State law. For this reason, the FPSC generally supports Tampa Electric's filing.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6082

DATED: November 4, 2002

**UNITED STATES OF AMERICA
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Tampa Electric Company

) Docket No. ER03-27-000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Notice of Intervention and Comments of the Florida Public Service Commission will be sent today by U.S. Mail to persons on the attached Service List.

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6082

DATED: November 4, 2002

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