

**MCWHIRTER REEVES**  
ATTORNEYS AT LAW

**ORIGINAL**

TAMPA OFFICE:  
400 NORTH TAMPA STREET, SUITE 2450  
TAMPA, FLORIDA 33602  
P. O. BOX 3350 TAMPA, FL 33601-3350  
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:  
  
TALLAHASSEE

TALLAHASSEE OFFICE:  
117 SOUTH GADSDEN  
TALLAHASSEE, FLORIDA 32301  
(850) 222-2525  
(850) 222-5606 FAX

September 27, 2002

**VIA HAND DELIVERY**

Blanca S. Bayo, Director  
Division of Records and Reporting  
Betty Easley Conference Center  
4075 Esplanade Way  
Tallahassee, Florida 32399-0870

Re: Docket No.: 020898-EQ

Dear Ms. Bayo:

On behalf of Cargill Fertilizer, Inc. (Cargill), enclosed for filing and distribution are the original and 1 copy of the following:

- ▶ Cargill Fertilizer, Inc.'s Objection to Tampa Electric Company's Amended Request for Confidential Classification.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copy to me. Thank you for your assistance.

Sincerely,

*Vicki Gordon Kaufman*  
Vicki Gordon Kaufman

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CAF	Enclosure
CMP	_____
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FPSC-BUREAU OF RECORDS

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COMMISSION  
CLERK

McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN & ARNOLD, P.A.

DOCUMENT NUMBER-DATE

10400 SEP 27 02

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application of Cargill Fertilizer, Inc.  
To engage in self-service wheeling of  
Waste heat cogenerated power to, from and  
Between points within Tampa Electric  
Company's service territory.

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Docket No. 020898-EQ

Filed: September 27, 2002

**Cargill Fertilizer, Inc.'s Objection to Tampa Electric Company's  
Amended Request for Confidential Classification**

Cargill Fertilizer, Inc. (Cargill), hereby files this objection to Tampa Electric Company's (TECo) Amended Request for Confidential Classification filed on September 24, 2002. TECo's request should be denied and the information TECo seeks to shield from public disclosure should be immediately made public. As grounds therefor, Cargill states:

1. This matter concerns Cargill's request that the pilot self-service wheeling program which this Commission approved in Order No. PSC-00-1596-TRF-EQ, rendered September 6, 2000, in Docket No. 001048-EQ, be continued. It is currently set to expire on September 30, 2002.

2. During the pilot study period, TECo was required to file reports with the Commission related to the program. For each of the seven reports that were filed, TECo requested that they be treated confidentially. Staff did so and at the conclusion of their review, the reports were returned to TECo.

3. After Cargill filed its petition to continue the program on August 16, 2002, Staff made an informal request to TECo to review the reports again. On September 11, 2002, TECo provided the seven quarterly reports on a confidential basis. Attached to the transmittal letter was "Exhibit A", in which TECo set forth its justification for its request:

The confidential portions of the Quarterly Report outlined in yellow<sup>1</sup> reflect information concerning the electrical consumption of a single industrial customer of Tampa Electric, Cargill Fertilizer, Inc. Cargill is a participant in a very competitive industry. *The confidential information circled in yellow either reflects or can be used to back into the electrical consumption of Cargill. Cargill's competitors could use this information to closely estimate the production activities of Cargill and thereby place Cargill at a distinct competitive disadvantage.* As such, the information in question is proprietary confidential business information public disclosure of which *could harm Tampa Electric's customer, Cargill's ability to compete in the fertilizer industry.* Accordingly, the Commission is requested to treat the highlighted information as confidential and exempt from disclosure. Cargill and Tampa Electric treat the highlighted information as confidential and have not disclosed it publicly.<sup>2</sup>

At no point in its request for confidentiality does TECo assert that any of the information is *TECo* confidential information.

4. Similarly, in a transmittal letter to Cargill counsel enclosing the same reports on September 12, TECo stated:

As we discussed yesterday, enclosed are the seven quarterly reports submitted in connection with the experimental self-service wheeling arrangement for Cargill. We filed copies of these reports with the Commission yesterday under a request for confidential treatment, *asking the Commission to recognize that public disclosure of the information contained in these reports will be harmful to your client Cargill.*<sup>3</sup>

5. On September 16, 2002, Cargill sent a letter waiving confidentiality of the reports.<sup>4</sup> Cargill stated that it was doing so to provide the "staff and Commissioners the opportunity to openly and fully explore the information contained" in the reports.

6. Only *after* Cargill's waiver of confidentiality for the reports, did TECo for the *first time*, on September 24<sup>th</sup>, assert that some information in the reports was confidential TECo information. Based on TECo's failure to assert any claim of confidentiality on at least two prior occasions as to the very same reports, such request should be denied.

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<sup>1</sup> The entire report was outlined in yellow.

<sup>2</sup> Attachment 1, emphasis added.

<sup>3</sup> Attachment 2, emphasis added.

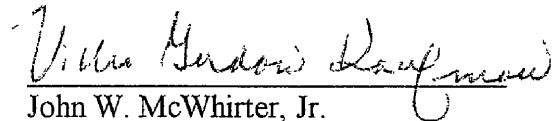
<sup>4</sup> Attachment 3.

7. In its "amended" request for confidential classification, TECo asserts confidentiality for the first time for line 7 of the portion of the report entitled "Impact of Cargill Self-Service Wheeling (SSW) Pilot." This line contains three entries: lost retail tariff time-of-use fuel revenues; avoided incremental fuel and purchased power expense; and net impact to fuel recovery clause. TECo's general justification is that disclosing incremental fuel information would put it at a disadvantage in the wholesale market because it might help competitors figure out the price at which TECo would buy and sell in the wholesale market.

8. However, much of the information TECo seeks to keep secret is stale information from several years ago. For example, the information contained in TECo's report for the 4<sup>th</sup> Quarter of 2000 is from October - December 2000. There is no justification for keeping this stale information secret. Section 366.093(4), Florida Statutes, provides for confidential information to be kept secret, for at most, a period of 18 months, unless good cause is shown. Certain of the information that TECo wants to keep secret is outside this timeframe and TECo has made no such showing of good cause to keep the information confidential.

9. Putting aside TECo's waiver of the right to seek confidential treatment for the information discussed above, while more recent information (perhaps from Quarter 2, April - June 2002) might arguably be kept confidential, older information does not meet the requisite statutory test and should not be kept secret.

**WHEREFORE**, Cargill requests that the Commission deny TECo's request for confidential treatment of the information in the Quarterly Reports for the reasons described herein.



John W. McWhirter, Jr.  
McWhirter Reeves McGlothlin Davidson  
Decker Kaufman & Arnold, P.A.  
400 North Tampa Street, Suite 2450  
Tampa, Florida 33601-3350  
Telephone: (813) 224 0866  
Facsimile: (813) 221 1854

Vicki Gordon Kaufman  
Timothy J. Perry  
McWhirter Reeves McGlothlin Davidson  
Decker Kaufman & Arnold, P.A.  
117 South Gadsden Street  
Tallahassee, Florida 32301  
Telephone: (850) 222-2525  
Facsimile: (850) 222-5606

Attorneys for Cargill Fertilizer, Inc.

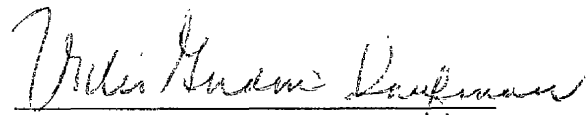
## CERTIFICATE OF SERVICE

I HERBY CERTIFY that a true and correct copy of the foregoing Cargill Fertilizer, Inc.'s Objection to Tampa Electric Company's Amended Request for Confidential Classification has been furnished by (\*) hand delivery on this 27th day of September, 2002 to the following:

(\*) Rosanne Gervasi  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

(\*) Michael Haff  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Gunter Building  
ECR, Room 225L  
Tallahassee, Florida 32399

(\*) James D. Beasley  
Ausley & McMullen  
227 South Calhoun Street  
Post Office Box 391  
Tallahassee, Florida 32302

  
Vicki Gordon Kaufman

**JUSTIFICATION FOR CONFIDENTIAL CLASSIFICATION  
OF HIGHLIGHTED PORTIONS OF THE QUARTERLY REPORT**

The confidential portions of the Quarterly Report outlined in yellow reflect information concerning the electrical consumption of a single industrial customer of Tampa Electric, Cargill Fertilizer, Inc. Cargill is a participant in a very competitive industry. The confidential information circled in yellow either reflects or can be used to back into the electrical consumption of Cargill. Cargill's competitors could use this information to closely estimate the production activities of Cargill and thereby place Cargill at a distinct competitive disadvantage. As such, the information in question is entitled to confidential classification pursuant to Section 366.093, Florida Statutes, and Commission Rule 25-22.006, Florida Administrative Code. The information in question is proprietary confidential business information public disclosure of which could harm Tampa Electric's customer, Cargill's ability to compete in the fertilizer industry. Accordingly, the Commission is requested to treat the highlighted information as confidential and exempt from public disclosure. Cargill and Tampa Electric treat the highlighted information as confidential and have not disclosed it publicly.

# AUSLEY & MCMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

September 12, 2002

HAND DELIVERED

Ms. Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin, Davidson,  
Decker, Kaufman, Arnold & Steen, P.A.  
117 South Gadsden Street  
Tallahassee, FL 32301

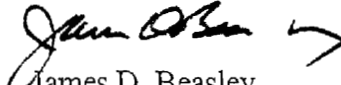
Re: Application of Cargill Fertilizer, Inc. to engage in self-service wheeling of waste heat cogenerated power to, from and between points within Tampa Electric Company's Service Territory; FPSC Docket No. 020898-EQ

## CONFIDENTIAL DOCUMENTS ENCLOSED

Dear Vicki:

As we discussed yesterday, enclosed are the seven quarterly reports submitted in connection with the experimental self-service wheeling arrangement for Cargill. We filed copies of these reports with the Commission yesterday under a request for confidential treatment, asking the Commission to recognize that public disclosure of the information contained in these reports will be harmful to your client Cargill. As we discussed, Cargill has been provided copies of these reports and you have agreed to protect the confidential nature of the information contained in the reports.

Sincerely,

  
James D. Beasley

JDB/pp  
Enclosures

SEP 12 2002

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**MCWHIRTER REEVES**  
ATTORNEYS AT LAW

TAMPA OFFICE:  
400 NORTH TAMPA STREET, SUITE 2450  
TAMPA, FLORIDA 33602  
P. O. BOX 3350 TAMPA, FL 33601-3350  
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TALLAHASSEE

TALLAHASSEE OFFICE:  
117 SOUTH GADSDEN  
TALLAHASSEE, FLORIDA 32301  
(850) 222-2525  
(850) 222-5606 FAX

September 16, 2002

**VIA HAND DELIVERY**

Blanca S. Bayo, Director  
Division of Records and Reporting  
Betty Easley Conference Center  
4075 Esplanade Way  
Tallahassee, Florida 32399-0870

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COMMISSION  
CLERK

Re: Application of Cargill Fertilizer, Inc. to engage in self-service wheeling of waste heat cogenerated power to, from and between points within Tampa Electric Company's service territory. Docket No.: 020898-EQ.

Dear Ms. Bayo:

On September 11, 2002, Tampa Electric Company ("TECo") filed a package of documents containing seven "Quarterly Reports" (document nos. 09645-02 and 09646-02). Accompanying the documents was a request for confidential classification of these documents by TECo on Cargill's behalf. In the interest of providing the Commission staff and the Commissioners the opportunity to openly and fully explore the information contained in these documents, Cargill waives confidentiality with respect to the reports, but reserves the right to reassert confidentiality in the event future discovery seeks confidential information. You are hereby authorized to make the reports Tampa Electric submitted on September 11th part of the open file in this case.

In addition, TECo failed to provide Cargill's response to the mid-term report in its filing. Cargill's response to the mid-term report and Cargill's response to the seventh quarterly report are submitted with this letter. The reports lack the qualifications for record evidence, but I presume the staff wishes to use them to help in framing its recommendations to the Commission.

Currently, there is a motion pending to continue the pilot study until the eighth and final report is filed by TECo. This motion is supported by the sworn affidavit of Roger Fernandez, and explains the adverse circumstances facing Cargill due to the fact that the pilot program ends when one of its waste heat generators is out of service. Cargill's generator will be down while Tampa Electric's capacity is constrained as a result of its Fall planned maintenance, the Gannon/Bayside Plant conversion and Tampa Electric's commitment to firm off-system sales.

Continuing the Cargill self-service wheeling program while Cargill's application for permanent approval is being studied will enable the two year study to be completed. Further, it should result in

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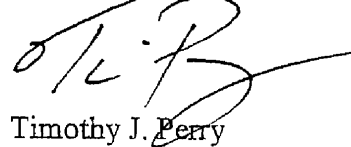
Attachment 3

SC-BUREAU OF RECORDS

Blanca S. Bayo  
September 16, 2002  
Page 2

no lost revenue to TECo when it is supplying power under the optional purchase provision of TECo's cogeneration standby tariff. In addition, other interruptible customers will benefit from the reduction in TECo's need to interrupt or purchase power for Cargill.

Sincerely yours,

A handwritten signature in black ink, appearing to read "T. J. Perry", with a long horizontal flourish extending to the right.

Timothy J. Perry

TJP/encl.

cc: Michael Haff  
Roseanne Gervasi  
Elisabeth Draper  
James Beasley  
Roger Fernandez