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February 6, 2003

Hon. Harold McLean
General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

COMMISSION
CLERK

FEB -7 PM 2:59

Re: Docket No. 020898-EQ

Dear Mr. McLean:

On November 5th, 2002 Commissioner Bradley rendered order NO. PSC-02-1518-PCO-EQ, abating these proceedings until the Federal Energy Regulatory Commission responded to Tampa Electric's request to amend its Open Access Transportation Tariff to accommodate self-service wheeling for Cargill. The order said:

"According to TECO, while the company is willing to pursue mediation in this case, it is not yet in a position to do so. TECO filed a transaction specific Transmission Service Agreement with the Federal Energy Regulatory Commission (FERC) on October 9, 2002, seeking what it believes are necessary waivers from FERC to cover self-service wheeling to Cargill. Until FERC rules on that filing, the critical parameters within which the parties have discretion to mediate will not be known. Therefore, it would not be an efficient use of the time and resources of the Commission or the parties to initiate mediation until after FERC has addressed TECO's filing."

On November 14, 2002 FERC entered a letter-order in its Docket No. ER03-27 that permits the new Cargill-TECO SSW agreement to become effective as of October 1, 2002.

Since November 14th the parties have been diligently working on additional suitable language to amplify the agreement to include additional provisions Tampa Electric says it requires before it will grant the permanent self-service wheeling mandated by § 366.051 *Florida Statutes*. Cargill has accepted most of Tampa Electric's demands, but the parties have reached an impasse on several of the proposed covenants. Cargill believes that it would be helpful for a Commission mediator to provide guidance on the issues of public policy by going forward with the mediation process the parties have previously accepted by their pleadings.

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The principal unresolved public policy issues submitted to mediation by Cargill are:

1. What are the appropriate triggers for terminating the transmission service?
2. What is the appropriate credit for the environmental benefits Cargill provides?
3. By definition the self-service wheeling conservation program always reduces the amount of electricity that Tampa Electric generates or buys for resale to Cargill. If Cargill continues to pay all interruptible standby demand charges plus a charge for the transmission of its waste heat generated electricity, is it appropriate to use a formula calculation that assumes customers are adversely impacted because Cargill doesn't pay Tampa Electric for electricity that Cargill doesn't buy from Tampa Electric?
4. If it is appropriate to charge Cargill for electricity that it doesn't receive, under the provisions of § 366.051 *Florida Statutes* should that revenue paid by Cargill flow to the general body of ratepayers through cost recovery clauses or be retained by Tampa Electric as base revenues that are not shared with customers?

The recitation of the foregoing issues is not intended to limit the material issues of fact and law that are in dispute in the formal proceeding.

Please initiate the mediation procedure. The abatement order should be lifted so that the main dispute timeline can be met while we attempt alternate dispute resolution. In the alternative, a supplemental order of abatement should be rendered to enable the mediation to proceed with ample time for a successful deliberation.

I am sending an information copy of this letter to Chairman Jaber, Prehearing Officer Bradley, staff counsel Rosanne Gervasi and to the Bureau of Records and Hearing Services for filing.

Sincerely,



John W. McWhirter, Jr.
Vicki Gordon Kaufman

Cc: Chairman Jaber
Prehearing Officer Bradley
Rosanne Gervasi
Michael Haff
Blanco Bayo
James Beasley
Harry Long
Roger Fernandez