

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Cargill  
Fertilizer, Inc. for permanent  
approval of self-service  
wheeling to, from, and between  
points within Tampa Electric  
Company's service area.

DOCKET NO. 020898-EQ  
ORDER NO. PSC-03-0866-PCO-EQ  
ISSUED: July 24, 2003

ORDER GRANTING MOTION TO COMPEL TECO TO RESPOND TO OUTSTANDING  
DISCOVERY AND DENYING REQUEST FOR ORAL ARGUMENT THEREON, LIFTING  
ABATEMENT OF PROCEDURAL SCHEDULE, SETTING CASE FOR HEARING, AND  
ESTABLISHING PROCEDURE

BACKGROUND

By Order No. PSC-03-0773-PCO-EQ, issued June 30, 2003, the parties were strongly encouraged to voluntarily avail themselves of the mediation program offered by this Commission in an effort to resolve this case. However, Cargill Fertilizer, Inc.'s (Cargill) Motion to Convene Mediation, filed May 30, 2003, was denied because the mediation program is available on a strictly voluntary basis. Instead, the parties were required to file a status report within ten days of the issuance date of the order, either jointly or separately, advising this Commission whether they have agreed to mediate this dispute on mutually acceptable terms. The order advised that if the parties were to fail to agree to mediate this dispute within the allotted time frame, this matter will be resolved through the formal hearing process.

Further, by Order No. PSC-03-0773-PCO-EQ, Cargill's Motion to Compel Tampa Electric Company (TECO) to Respond to Outstanding Discovery and Request for Oral Argument thereon, filed May 30, 2003, were found to be premature, and were denied without prejudice to refile if this case is not mediated or settled and it becomes necessary to conduct a hearing. Cargill's Motion to Lift the Procedural Abatement and to Establish the Procedural Schedule, filed May 30, 2003, was also denied as premature. The parties were advised that the currently scheduled hearing date of October 22, 2003, will be rescheduled if it proves not to allow sufficient time for Cargill to file its direct testimony at least 15 days after

DOCUMENT NUMBER 100

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TECO fully answers the pending discovery propounded by Cargill or is relieved from the obligation to do so.

STATUS REPORTS

On July 10, 2003, Cargill and TECO timely filed their respective mediation status reports, as required by Order No. PSC-03-0773-PCO-EQ.

In its status report, Cargill states that it supports the view frequently expressed by the Commission and by TECO, that mediation is an efficient and cost-effective way for parties to resolve disputes short of litigation. Cargill further states that generally, one of the first steps in mediation is for the parties to discuss the procedures and issues for mediation. The scope of the issues to be mediated is discussed and decided upon in the mediation itself. Often, the skills of the Commission mediator are very helpful in this regard and would no doubt be useful in this case. However, Cargill advises that the parties have not agreed to the parameters for mediation. Cargill is hopeful that TECO will come to the table with the Commission's strong encouragement. If mediation does not go forward, Cargill requests, in the alternative, that the stay be lifted and that the case scheduling be reformed to enable discovery issues to be resolved before Cargill is required to file its testimony.

In its status report, TECO states that it contacted Cargill to discuss the possibility of formal mediation of the few matters left unresolved by the many months of informal but intensive settlement discussions that the parties have already conducted. However, given Cargill's continued insistence that the scope of any future mediation must be broadened to encompass many, if not all, of the issues that Cargill would raise in a litigated proceeding, the parties have been unable to agree on mutually acceptable terms for mediation. Therefore, TECO asks for reinstatement of the procedural schedule and that Cargill be given the opportunity to meet its burden of proof in this proceeding through the expeditious filing of direct testimony.

MOTION TO COMPEL TECO TO RESPOND TO OUTSTANDING DISCOVERY AND  
REQUEST FOR ORAL ARGUMENT

In its Motion to Compel TECO to Respond to Discovery, Cargill states that on October 14, 2002, Cargill served its First Set of Interrogatories (Nos. 1-22) and its First Request for Production of Documents (Nos. 1-6) on TECO. On October 16, 2002, Cargill served its First Request for Admissions (Nos. 1-7) on TECO. Because Order No. PSC-02-1518-PCO-EQ held the procedural schedule in abeyance, TECO has not responded to any of Cargill's discovery. According to Cargill, TECO has objected to numerous of the discovery requests and much of the information that Cargill seeks through discovery is in the sole possession of TECO. Cargill argues that it must have this information in order to prepare its case. Cargill discusses each of TECO's objections to the discovery and argues why the objections should be rejected and TECO should be required to respond to all of the discovery.

In the interest of expediency, Cargill need not refile its Motion to Compel TECO to Respond to Outstanding Discovery (Motion) and Request for Oral Argument thereon. On June 6, 2003, TECO timely responded to the Motion and to the Request for Oral Argument. Because the parties have failed to agree to mediate this dispute on mutually acceptable terms, this matter shall proceed to hearing. Therefore, these filings are no longer premature, and they are revived and ruled upon herein, as follows.

Because the Motion is clear on its face, oral argument is not necessary. Therefore, Cargill's Request for Oral Argument is denied.

REQUESTS FOR ADMISSION

Request for Admission No. 3

Request for Admission No. 3 asks TECO to admit that "Line 5 of TECO's quarterly 'Impact of Cargill Self-Service Wheeling (SSW) Pilot' shows a reduction in Conservation Cost Charges collected from Cargill. Admit that TECO projects that it saves \$12,536,000 in fuel costs as a result of conservation programs and that SSW reduces TECO's fuel cost."

TECO objects on the ground that the request has no temporal element and therefore is vague, ambiguous and otherwise unintelligible. In its Motion, Cargill states that in Docket No. 020002-EG, TECO itself set the temporal element at calendar year 2003. In its response to the Motion, TECO states that it is not in a position to either admit or deny the request unless the request is revised to provide the specificity necessary to make it coherent.

In the interest of expediency, rather than requiring Cargill to rephrase the request, TECO shall admit or deny Request for Admission No. 3 within 15 days of the issuance date of this Order, with the understanding that the temporal element relevant to the request is calendar year 2003.

Request for Admission No. 5

Request for Admission No. 5 asks TECO to "[a]dmit that TECO proposes to charge its retail customers \$945,190 during calendar year 2003 to promote emergency generation at firm commercial and industrial facilities in order to reduce weather-sensitive peak demand."

TECO objects on the ground that the request is vague and ambiguous with regard to its reference to "emergency generation." In its Motion, Cargill clarifies that the term "emergency generation" is used as TECO used it in Docket No. 020002-EG, on Schedule C-5, page 8 of 16 of Exhibit HTB-2, attached to the October 4, 2002 testimony of Howard T. Bryant.

In the interest of expediency, rather than requiring Cargill to rephrase the request, TECO shall admit or deny Request for Admission No. 5 within 15 days of the issuance date of this Order, with the understanding that the term "emergency generation" is as described by Cargill in its Motion.

INTERROGATORIES

Interrogatories Nos. 4-6

In Interrogatories Nos. 4-6, Cargill seeks information regarding TECO's marginal fuel costs. TECO objects to providing

the information on the grounds that the requested information is proprietary, commercially sensitive information that Cargill, as a competitor of TECO in the wholesale power market, could use to the detriment of TECO's ratepayers. TECO is willing to provide the information pursuant to a non-disclosure agreement that ensures that the information provided will not be disclosed to specifically identified Cargill employees and affiliates engaged in the wholesale market function. In its Motion, Cargill argues that the Commission has a very thorough set of rules relating to the processing of confidential information that is intended to protect the information from disclosure outside a particular proceeding or to limit its disclosure only to parties. Further, parties often enter into non-disclosure agreements and such agreements clearly specify for what purposes the information may be used.

TECO shall provide responses to Interrogatories Nos. 4-6 within 15 days of the issuance date of this Order, along with a request for confidentiality thereof, or subject to an appropriate non-disclosure agreement with Cargill.

Interrogatory No. 18

Interrogatory No. 18 requests that TECO "[c]alculate the cost/benefit ratio of the Cargill self-service wheeling program using the Total Resource Test required in Order No. 24745. Explain in detail each of your inputs and calculations."

TECO objects on the ground that the company has not performed the requested analysis and has no obligation to do so since it is not the moving party in this proceeding.

In its Motion, Cargill argues that Order No. 24745 adopts Rule 25-17.008, Florida Administrative Code, entitled "Conservation and Self-Service Wheeling Cost Effectiveness Data Reporting Format." The order, the rule, and the Manual adopted by the rule contemplate the application of both the Rate Impact Test and the Total Resource Test by the utility to self-service wheeling programs. The rule itself provides, in part, that it applies to all utilities "whenever an evaluation of the cost effectiveness of a self-service wheeling program is required by the Commission." TECO should be required to perform the Total Resource Test and to present that

analysis to assist the Commission in its determination in this matter, as the rule requires.

In its response to the Motion, TECO argues that Rule 25-17.008(2), Florida Administrative Code, clearly anticipates that the question of filing requirements will be relevant to the party proposing that the Commission adopt a particular self-service wheeling proposal. As the qualifying facility proposing self-service wheeling in this proceeding, any obligation to provide a cost effectiveness analysis or otherwise meet the minimum filing requirements falls to Cargill.

Rule 25-17.008(1), Florida Administrative Code, states, in relevant part, that it "applies to . . . all public utilities, as addressed by section 366.051, F.S., whenever an evaluation of the cost effectiveness of a self-service wheeling proposal is required by the Commission." Rule 25-17.008(2) states, in relevant part, that "[t]he purpose of this rule is to establish minimum filing requirements . . . for any self-service wheeling proposal made by a qualifying facility or public utility pursuant to Rule 25.17.0883." In order to determine whether the self-service wheeling program at issue is likely to result in higher cost electric service to TECO's general body of ratepayers, this Commission requires an evaluation of the cost effectiveness of the program. Rule 25-17.008(1) requires the public utility to provide the evaluation of the cost effectiveness of the program, regardless of the fact that the proposal to make the program permanent was made by Cargill. TECO shall respond to the interrogatory within 15 days of the issuance date of this Order.

Interrogatory No. 20

Interrogatory No. 20 asks "[h]ow much has TECO charged customers to promote industrial cogeneration since 1980?"

TECO objects on the ground that the requested information is not relevant to the matters raised in this proceeding. Cargill argues that TECO has a conservation program that promotes industrial cogeneration and charges retail customers for the cost of such a program. Because TECO now refuses to provide self-service wheeling so that Cargill may effectively use the

cogeneration that TECO has promoted, the amount TECO has charged ratepayers for this program is relevant to this case.

Rule 1.280(b)(1), Florida Rules of Civil Procedure, provides that "[i]t is not ground for objection that the information sought [through the process of discovery] will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Such discovery rules are very broad in scope and are to be liberally construed to accomplish their purpose. Amente v. Newman, 653 So. 2d 1030 (Fla. 1995). Although the responses to the discovery questions at issue may ultimately not be admissible at hearing, the questions are reasonably calculated to lead to the discovery of admissible evidence. TECO shall respond to the interrogatory within 15 days of the issuance date of this Order.

Interrogatory No. 22

Interrogatory No. 22 asks "[w]hat is the sum TECO calculates customers have derived from the conservation surcharge it imposes on customers to enable it to promote industrial cogeneration?"

TECO objects on the ground that the interrogatory is vague, ambiguous, and otherwise unintelligible. In its Motion, Cargill states that it is seeking to elicit how much money retail customers have saved due to what they have expended on TECO's program to promote industrial cogeneration. That is, retail ratepayers pay a conservation surcharge to promote industrial cogeneration (one of TECO's conservation programs). Cargill's interrogatory seeks to find out how much ratepayers have saved due to that program.

In its response to the Motion, TECO argues that even with Cargill's attempted clarification, the question remains ambiguous and unclear. I disagree. To the best of its ability, TECO shall answer the interrogatory, read together with Cargill's clarification, within 15 days of the issuance date of this Order.

REQUESTS FOR PRODUCTION

Production Request No. 1

Production Request No. 1 asks for "[a]ll worksheets, spreadsheets, backup materials and calculations supporting the figures included in the schedule entitled "Impact of Cargill Self-Service Wheeling (SSW) Pilot" contained in each of the seven (7) Quarterly Reports provided to the Commission."

TECO objects to the extent that the request requires the disclosure of hourly marginal fuel cost data, on the ground that the requested hourly marginal fuel cost information is proprietary, commercially sensitive information that Cargill, as a competitor of TECO in the wholesale power market, could use to the detriment of TECO's ratepayers. In its Motion, Cargill incorporates its argument as to alleged confidential information in regard to Interrogatories Nos. 4-6. TECO responds that it would be willing to provide this information pursuant to a non-disclosure agreement containing the same disclosure restrictions as TECO would require for its responses to Interrogatories Nos. 4-6.

TECO shall respond to the Production Request within 15 days of the issuance date of this Order, along with a request for confidentiality thereof, or subject to an appropriate non-disclosure agreement with Cargill.

Production Request No. 3

Production Request No. 3 asks for "[a]ll documents related to the calculation of the Total Resource Test for the self-service wheeling program."

TECO objects on the grounds that the company has not performed the requested analysis and has no obligation to do so since it is not the moving party in this proceeding. In its Motion, Cargill adopts and incorporates its argument related to Interrogatory No. 18. The order, rule, and manual applicable to self-service wheeling require TECO to perform the Total Resource Test.

As previously noted, Rule 25-17.008(1), Florida Administrative Code, requires the public utility to provide the evaluation of the



cost effectiveness of the program, regardless of the fact that the proposal to make the program permanent was made by Cargill. TECO shall respond to the Production Request within 15 days of the issuance date of this Order.

RULING ON ALL PENDING DISCOVERY

TECO shall fully answer all outstanding discovery requests propounded by Cargill within 15 days of the issuance date of this Order.

ORDER ESTABLISHING PROCEDURE

By Order No. PSC-02-1451-PCO-EQ, issued October 21, 2002, this docket was scheduled directly for an expedited hearing. By Order No. PSC-02-1518-PCO-EQ, issued November 5, 2002, the procedural schedule for this case was held in abeyance in order to provide time for the parties to attempt to settle their dispute. By Order No. PSC-03-0276-PCO-EQ, issued February 28, 2003, the procedural schedule was further abated to enable the parties to allow time for further settlement discussions and mediation, if necessary. Because the parties have failed to agree to mediate this dispute on mutually acceptable terms, abeyance of the procedural schedule is hereby lifted and this matter shall proceed to hearing. This docket is currently scheduled for an administrative hearing on October 22, 2003.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission staff (staff) up to and during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and all administrative rules applicable to this Commission.

DISCOVERY

When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

The hearing in this docket is set for October 22, 2003. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by October 15, 2003. Parties shall avail themselves of the liberal discovery allowed by this Order and within the time frames set forth above. Parties are cautioned against conducting discovery during cross-examination at the hearing. All interrogatories, requests for admissions, and requests for production of documents shall be numbered sequentially in order to facilitate their identification. The discovery requests will be numbered sequentially within a set and any subsequent discovery requests will continue the sequential numbering system. Pursuant to Rule 28-106.206, Florida Administrative Code, unless subsequently modified by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 100 and requests for production of documents, including all subparts, shall be limited to 100.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, Florida Statutes.

DISKETTE FILINGS

See Rule 25-22.028(1), Florida Administrative Code, for the requirements of filing on diskette for certain utilities.

PREFILED TESTIMONY AND EXHIBITS

Each party shall prefile, in writing, all testimony that it intends to sponsor. Such testimony shall be typed on 8 ½ inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

Each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the Commission.

An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of the Commission Clerk and Administrative Services, by the close of business, which is 5:00 p.m., on the date due. A copy of all prefiled testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

If a demonstrative exhibit or other demonstrative tools are to be used at hearing, they must be identified by the time of the Prehearing Conference.

PREHEARING STATEMENTS

All parties shall file a prehearing statement. Staff will also file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of the Commission Clerk and Administrative Services by the close of business, which is 5:00 p.m., on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue and the party's position on each such issue;
- (f) a statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;

- (g) a statement of issues that have been stipulated to by the parties;
- (h) a statement of all pending motions or other matters the party seeks action upon;
- (i) a statement identifying the parties' pending requests or claims for confidentiality;
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefor; and
- (k) any objections to a witness's qualifications as an expert must be identified in a party's Prehearing Statement. Failure to identify such objection may result in restriction of a party's ability to conduct voir dire.

PREHEARING CONFERENCE

Pursuant to Rule 28-106.209, Florida Administrative Code, a prehearing conference will be held on October 6, 2003, at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

PREHEARING PROCEDURE: WAIVER OF ISSUES

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party.

Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

#### DOCUMENT IDENTIFICATION

To facilitate the management of documents in this docket, exhibits will be numbered at the Prehearing Conference. Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the exhibit number and the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL  
J. Doe Exhibit No. \_\_\_\_\_  
Cost Studies for Minutes of Use by Time of Day

#### CONTROLLING DATES

The following dates have been established to govern the key activities of this case. These controlling dates are designed to require Cargill to file its direct testimony no earlier than 15 days after TECO fully answers the discovery propounded by Cargill

and to preserve the prehearing and hearing dates already reserved for this case.

- 1) Cargill's direct testimony  
and exhibits August 27, 2003
- 2) TECO's direct testimony  
and exhibits/staff's direct  
testimony and exhibits, if any September 10, 2003
- 3) Rebuttal testimony and exhibits/  
Prehearing Statements September 24, 2003
- 4) Prehearing Conference October 6, 2003
- 5) Discovery Cut-Off October 15, 2003
- 6) Hearing October 22, 2003
- 7) Briefs November 19, 2003

USE OF CONFIDENTIAL INFORMATION AT HEARING

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven-day requirement described above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the

contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services's confidential files.

#### POST-HEARING PROCEDURE

If the Commission does not make a bench decision at the hearing, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a post-hearing statement is required and a party fails to file it in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages, and shall be filed at the same time.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Cargill Fertilizer, Inc.'s Request for Oral Argument on its Motion to Compel Tampa Electric Company to Respond to Outstanding Discovery is denied. It is further



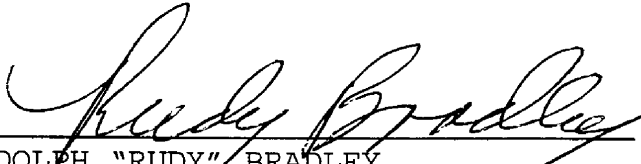
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ORDERED that Cargill Fertilizer, Inc.'s Motion to Compel Tampa Electric Company to Respond to Outstanding Discovery is granted. Tampa Electric Company shall fully answer all pending discovery requests propounded by Cargill within 15 days of the issuance date of this Order. It is further

ORDERED that because the parties have failed to agree to mediate this dispute on mutually acceptable terms, abeyance of the procedural schedule is hereby lifted and this matter shall proceed to hearing on October 22, 2003. It is further

ORDERED that the provisions of this Order shall govern these proceedings unless modified by the Commission.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 24th day of July, 2004.

  
\_\_\_\_\_  
RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.