

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-03-0909-PCO-EQ
ISSUED: August 7, 2003

ORDER DENYING CARGILL FERTILIZER, INC.'S MOTION
TO SHORTEN DISCOVERY RESPONSE TIME AND
ESTABLISHING PROCEDURE SETTING NEW CONTROLLING DATES

On July 25, 2003, Cargill Fertilizer, Inc. (Cargill) served its Second Set of Interrogatories and its Second Request for the Production of Documents to Tampa Electric Company (Tampa Electric). On July 25, 2003, Cargill also filed a Motion to Shorten Discovery Response Time requesting that the Prehearing Officer expedite discovery by requiring Tampa Electric to file any objections to discovery within five days of service and respond to discovery within 15 days. In the alternative, Cargill requests that the Prehearing Officer move the date it is required to file its direct testimony to 15 days after Tampa Electric fully answers the discovery posed by Cargill. On July 29, 2003, Tampa Electric filed a response opposing Cargill's Motion to Shorten Discovery Response Time. However, Tampa Electric does not object to Cargill's request for additional time to file its direct testimony, so long as the remainder of the procedural schedule is adjusted commensurately.

Rule 28-106.211, Florida Administrative Code, grants broad authority to "issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case" Based upon this authority, and having considered the Motion and Response, the rulings are set forth below.

Cargill seeks an order shortening discovery response time for Tampa Electric to respond to Cargill's Second Set of Interrogatories and Second Request for the Production of Documents. Each of Cargill's arguments, Tampa Electric's response, and the attendant rulings are addressed separately below.

DOCUMENT NUMBER-DATE

7254 AUG-7-03

FILED BY: [REDACTED] CLERK

Cargill states that it served its Second Set of Discovery on Tampa Electric on July 25, 2003. Under the normal 30-day time period for response to discovery, Tampa Electric's answers would not be due until August 25, 2003, two days before the due date for Cargill's direct testimony. Cargill argues that without the Prehearing Officer requiring an expedited response time, it will not have the necessary information, which only Tampa Electric possesses, to prepare its testimony. Cargill requests that Tampa Electric be required to file any objections to discovery within five days of service and that Tampa Electric respond to discovery within 15 days of service. In the alternative, Cargill requests that it should not be required to file its testimony until 15 days from the time Tampa Electric fully responds to Cargill's discovery.

Tampa Electric responds that it opposes Cargill's motion to shorten discovery response time. Tampa Electric states that the Second Discovery Requests include 33 interrogatories, when the subparts of questions are taken into account, and four "excessively broad" requests for the production of documents. Tampa Electric states that it has objected to certain discovery requests in a separate pleading. Tampa Electric argues that responding to those requests that are not objectionable will be extremely time consuming, given the nature of the requests. According to Tampa Electric, if the time within which it must respond to these requests is shortened, responses would be due August 11, 2003, two weekend-days after responses to Cargill's first round of discovery is due. Tampa Electric argues that given the "extensive and burdensome nature" of the Second Set of Discovery Requests and the fact that it is currently working diligently to complete responses to Cargill's First Discovery Requests, requiring responses to the Second Set of Discovery Requests by August 11, 2003, would be "unduly burdensome and unnecessarily punitive." Tampa Electric states that Cargill will have ample opportunity to make use of any information that it receives in response to its Second Set of Discovery Requests if we adhere to the 30-day response period for discovery requests inherent in the Order Establishing Procedure. Tampa Electric argues that Cargill will have an opportunity to file rebuttal testimony on September 24, 2003, giving Cargill ample opportunity to take advantage of discovery responses received from Tampa Electric on August 25, 2003. Tampa Electric states that it does not object to Cargill's request for additional time to file

its direct testimony, so long as the remainder of the procedural schedule is adjusted commensurately.

Upon review of the pleadings and consideration of the arguments, Cargill's motion to shorten discovery response time is denied. However, due to the tight schedule of this case, Tampa Electric shall respond to Cargill's Second Set of Discovery Requests within 25 days of service, on or before August 20, 2003. There shall be no additional time for mailing. To allow Cargill additional time to file testimony after receiving Tampa Electric's responses to the Second Set of Discovery Requests, the controlling dates for filing testimony set forth in Order No. PSC-03-0866-PCO-EQ shall be modified. The remainder of the procedural schedule shall be adjusted commensurately. The modification to the procedural schedule shall be granted to ensure that the October 22, 2003, hearing date remains intact. The following revised dates shall now govern this case.

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| 1) Cargill's direct testimony
and exhibits | September 3, 2003 |
| 2) Tampa Electric's direct testimony
and exhibits/staff's direct testimony
and exhibits, if any | September 17, 2003 |
| 3) Rebuttal testimony and exhibits/
Prehearing Statements | October 1, 2003 |

It is therefore,

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Cargill's Motion to Shorten Discovery Response Time is denied. It is further

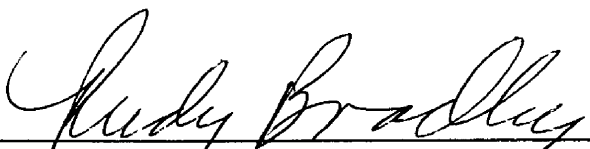
ORDERED that Tampa Electric shall respond to Cargill's Second Set of Discovery Requests on or before August 20, 2003, with no additional time for mailing. It is further

ORDERED that the controlling dates established in Order No. PSC-03-0866-PCO-EQ are modified as set forth in the body of this Order. It is further

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ORDERED that Order No. PSC-03-0866-PCO-EQ is reaffirmed in all other respects.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 7th day of August, 2003



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

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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.

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

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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.