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February 15, 2002

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Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Joint Petition of Florida Power Corporation and Tampa Electric Company for Expedited Declaratory Relief; FPSC Docket No. 020105-EI

Dear Ms. Bayo:

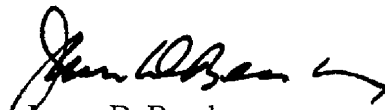
Enclosed for filing in the above docket are the original and fifteen (15) copies of each of the following:

1. Response of Florida Power Corporation and Tampa Electric Company to IMC Phosphates Company's Petition to Intervene, Request for Maintenance of the Status Quo and Request for Mediation. 01809-02
2. Response of Florida Power Corporation and Tampa Electric Company in Opposition to IMC's Motion to Dismiss. 01810-02
3. Request for Oral Argument by Florida Power Corporation and Tampa Electric Company. 01811-02


Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,


James D. Beasley

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Enclosures

cc: All Parties of Record (w/enc.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Florida Power Corporation) DOCKET NO. 020105-EI
and Tampa Electric Company for Expedited) FILED: February 15, 2002
Declaratory Relief.)
_____)

**RESPONSE OF FLORIDA POWER CORPORATION
AND TAMPA ELECTRIC COMPANY TO
IMC PHOSPHATES COMPANY’S PETITION TO INTERVENE,
REQUEST FOR MAINTENANCE OF THE STATUS QUO AND
REQUEST FOR MEDIATION**

Florida Power Corporation (“Florida Power”) and Tampa Electric Company (“Tampa Electric”) respond as follows to the Petition to Intervene, Request for Maintenance of the Status Quo and Request for Mediation filed in this proceeding on behalf of IMC Phosphates Company (“IMC”) on February 8, 2002:

As to the Petition to Intervene

1. Florida Power and Tampa Electric do not oppose IMC’s Petition for leave to intervene. However, Joint Petitioners do take issue with certain matters asserted by IMC in its statement of its substantial interests. IMC’s attempted reliance on a prior settlement relating to other equipment is inappropriate and misplaced. IMC refers to a settlement agreement entered into by Agrico Chemical Company and Tampa Electric Company on November 14, 1989. That settlement agreement and the temporary mobile facilities rider referred to in that agreement by their own terms expired two years after the effective date of the Commission order approving them, approximately a decade ago. Moreover, by attempting to rely upon the prior settlement agreement as precedent IMC violates the express provision in the settlement agreement that it “shall have no precedential value in any other proceeding before the Commission.” IMC also claims that the end use facilities at issue in this proceeding have been served by Florida Power

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“for many years.” Joint Petitioners dispute this assertion. Moreover, even if it were true, it would not justify a continuing violation of the provisions of a Commission approved territorial agreement. Tampa Electric specifically disputes IMC’s assertion that Tampa Electric could not serve the end use facilities at issue without installing additional equipment duplicating facilities already in operation.

As to the Request for Maintenance of the Status Quo

2. It should be apparent from the face of the Joint Petition that Florida Power and Tampa Electric contemplate maintaining the status quo pending the disposition of the Joint Petition. Had the Joint Petitioners intended to take action without guidance from the Commission, they would have done so rather than filing a joint petition.

3. Joint Petitioners have requested that this matter be disposed of on an expedited basis. An expedited disposition of the Joint Petition should be achievable given the straightforward language in the Joint Petitioners’ Commission approved territorial agreement.

As to the Request for Mediation

4. Both Florida Power and Tampa Electric view mediation as a potential vehicle for alternative dispute resolution under certain circumstances. However, in this case Joint Petitioners have a Commission approved territorial agreement that clearly provides that each utility has the lawful right and obligation to serve end use facilities located within its assigned territorial area. Unless IMC is willing to take electric service in a manner consistent with the Florida Power/Tampa Electric territorial agreement, there would seem to be little room for progress through mediation. Tampa Electric asserts that once it became aware that IMC’s end use facilities located in Tampa Electric’s service territory were being served by Florida Power, (approximately mid 2001) the company set about immediately to work with IMC to bring this

service in compliance with Joint Petitioners' Commission approved territorial agreement. Those efforts have been completely unsuccessful. Florida Power and Tampa Electric have attempted to resolve this situation informally prior to filing the Joint Petition, but to no avail.

WHEREFORE, Florida Power and Tampa Electric submit the foregoing in response to the Petition to Intervene, Request for Maintenance of the Status Quo and Request for Mediation submitted on behalf of IMC on February 8, 2002.

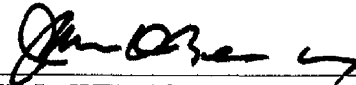
DATED this 15th day of February 2002.

Respectfully submitted,



JAMES A. MCGEE
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ATTORNEY FOR FLORIDA POWER
CORPORATION



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JAMES D. BEASLEY
Ausley & McMullen
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ATTORNEYS FOR TAMPA ELECTRIC
COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Reply to IMC's Motion to Dismiss, filed on behalf of Florida Power Corporation and Tampa Electric Company, has been furnished by hand delivery* or U. S. Mail on this 15th day of February 2002 to the following:

Mr. Harold McLean*
General Counsel
Florida Public Service Commission
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Tallahassee, FL 32399-0850

Mr. John W. McWhirter, Jr.
McWhirter Reeves McGlothlin Davidson
Decker Kaufman Arnold & Steen PA
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Tampa, FL 33601-3350

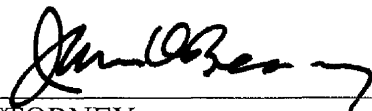
Mr. Robert V. Elias*
Staff Counsel
Florida Public Service Commission
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Mulberry, FL 33860

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