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August 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: Docket No.: ~~001048-EQ~~

020898 - EQ

Dear Ms. Bayo:

On behalf of Cargill Fertilizer, Inc. (Cargill), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Petition of Cargill Fertilizer, Inc. For Permanent Approval of Self-Service Wheeling Program and Request for Expedited Treatment. 08667-02
- ▶ Cargill Fertilizer, Inc.'s Motion to Continue Self-Service Wheeling of Waste Heat Cogenerated Power During Resolution of Petition for Permanent Approval. 08668-02

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

Sincerely,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

VGK/mls
Enclosure

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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 area.

Docket No. ~~001048-EQ~~ 020898-EQ

Filed: August 16, 2002

**PETITION OF CARGILL FERTILIZER, INC. FOR
PERMANENT APPROVAL OF SELF-SERVICE WHEELING PROGRAM
AND REQUEST FOR EXPEDITED TREATMENT**

Cargill Fertilizer, Inc. (Cargill), through its undersigned attorneys, seeks final approval from the Florida Public Service Commission (Commission) directing Tampa Electric Company (TECo) to transmit power between two designated cogeneration sites located within the TECo service area under the provisions of Sections 366.051 and 366.075, *Florida Statutes*, and Commission Rule 25-17.008, Florida Administrative Code, and requests that the Commission process this Petition on an expedited basis. In support of its petition, Cargill alleges:

1. By Order No. PSC-00-1596-TRF-EQ, rendered September 6, 2000, in Docket No. 001048-EQ, the Commission approved a twenty-four month pilot study to evaluate self-service wheeling for Cargill between two self-generation sites. The study program will expire September 30, 2002.¹ TECo has advised Cargill that it will not support continuing the program because of uncertainty over the impact of the recently published Federal Energy Regulatory Commission (FERC) Notice of Proposed Rule Making (NOPR) dealing with standard market design for transmission tariffs over which it has rate making jurisdiction.

2. Cargill will suffer material adverse operational and economic impact if it is unable to fully utilize its self-generated power in the future. Cargill will be particularly damaged during times when TECo is unable to provide power from its own generation. TECo's most recent quarterly report for the April-June period discloses that it was unable to provide electric service to interruptible or DSM customers from its own generation during parts of fifty-two separate days. A similar inability to serve will recur during October and November of this year as TECo works on its Bayside Plant conversion and performs scheduled major maintenance at the Big Bend station. If the retail self-service wheeling program is allowed to expire, when TECo is unable to provide service from its own generation, it will purchase power on the spot wholesale market and transmit it to Cargill, often at prohibitive prices. Cargill would prefer to move power from its low-cost generation that operates on waste between its Riverview fertilizer plants. This activity not only improves Cargill's operational efficiency, it supplements TECo reliability. The authority to engage in self-service wheeling during these times will obviate the need for some spot market purchased power.

¹ Cargill has simultaneously filed a Motion requesting that the Commission keep the self-service wheeling program in effect pending resolution of this Petition.

3. TECo was required to file reports during the pilot study period. The reports for the first seven quarters have shown that periodic transfers of power between Cargill's self-generation plants have no adverse impact on TECo's system reliability. The reports further demonstrate that the self-service wheeling provides revenue without imposing any additional cost on the TECo utility system.

4. Cargill is an industrial enterprise that uses waste heat to self generate electricity at two industrial plants located within the TECo service area. These plants have been classified as "qualifying facilities" under the relevant state and federal regulations. The facilities are presently being served and will continue to be served by TECo under its Interruptible Standby Tariff.

5. In general, cogeneration is encouraged under the provisions of the Federal Public Utility Regulatory Policies Act (PURPA), the Florida Energy Efficiency and Conservation Act (FEECA), and Section 366.82 (2), *Florida Statutes*; in particular, it is encouraged by Chapter 25-17, Florida Administrative Code, and by TECo's own cogeneration conservation program.

6. Chapter 366 051, *Florida Statutes*, also expressly requires public utilities to provide self-service wheeling to retail customers:

...if the commission finds that the provision of this service, and the charges, terms, and other conditions associated with the provision of this service, are not likely to result in higher cost electric service to the utility's general body of retail and wholesale customers or adversely affect the adequacy or reliability of electric service to all customers.

7. By Order No. 24745 in Docket No. 891324-EU, the Commission amended Rule 25-17.008, Florida Administrative Code, to establish the methodology for determining the Cost Effectiveness Data Reporting Format for conservation and self-service wheeling programs. In its order, the Commission construed § 366.051, *Florida Statutes*, by reading it in *pari materia* with § 366.81, *Florida Statutes*. The latter section expresses the legislative intent of FEECA. The legislature compels the Commission to encourage conservation programs. The act specifically enumerates cogeneration and directs the Commission to liberally construe FEECA to meet the complex problems of reducing the growth rates in electric consumption and to increase overall efficiency. The Commission was apparently concerned that § 366.051 might preclude a self-service wheeling program that resulted in *any* higher cost electricity to all retail customers. In its order amending rule 25-17.008, the Commission determined that in considering the cost-effectiveness of self-service wheeling programs, it would construe § 366.051 to mean materially higher costs not just any higher cost. The order said that the Commission would consider:

the type of fuel used; the fuel efficiency; the likelihood of a cogenerator building its own transmission line; and the materiality of any lost revenues indicated by the Rate Impact Test.

8. Cargill meets the conditions set forth in Rule 25-17.0883 and has requested permanent transmission and distribution services from TECo. Cargill requires resolution of its application for

permanent authority in order to go forward with its long range operational and capital planning. TECo has stated that it will not go forward with the program because it does not know the long range impact of the FERC NOPR, issued on July 31, 2002, dealing with standard market pricing for transmission services rendered to wholesale customers. TECo does not have to file tariffs under the NOPR until September 30, 2003. TECo refuses to even consider extending the program on a temporary basis while the FERC NOPR is evolving, although the NOPR deals with all power transmitted on the TECo system not just self-service wheeling.

9. TECo has filed reports during the study period. An examination of the reports:
 - a. Shows that the lost revenue to be shared with the general body of ratepayers is not material and is in fact insignificant and far less than the surcharge Cargill pays to the fuel clause due to the fact that it is charged average rather than “real time” fuel costs.
 - b. Demonstrates that the reports fail to recognize the environmental benefits and other benefits of Cargill’s self-service wheeling.
 - c. Demonstrates that the reports fail to properly apply the Rate Impact Test and the Total Resource Test as required by the Commission’s cost-effectiveness manual and Rule 25-17.008, Florida Administrative Code.
 - d. Illustrates that the Cargill self-service wheeling program adds revenue for transmission charges without adversely causing congestion.
 - e. Reveals that the reports fail to consider the favorable benefit to other interruptible and DSM customers when Cargill self-service wheeling obviates the need for interruption or some spot purchases.

10. As a retail customer of a Florida regulated public utility, Cargill would prefer to submit its disputes with a utility protected by Florida law to the Florida regulatory agency responsible for regulating public utilities rather than petitioning the FERC for relief. This is not simply a matter of convenience; FERC has no jurisdiction to oversee retail service.

11. Cargill alleges that the requested self-service wheeling service over TECo electric lines as described herein meets the requirements of Rule 25-17.0883, Florida Administrative Code, and §§ 366.051 and 366.075, *Florida Statutes*.

WHEREFORE, Cargill, Inc. petitions the Commission to make a determination that retail self- service wheeling by Cargill, a retail customer of TECo, to from and between its two plant locations in the TECo service area:

1. Is subject to the jurisdiction of the Florida Public Service Commission;

2. Is not likely to adversely impact reliability of service or result in higher cost electric service to the general body of retail and wholesale customers or adversely affect the adequacy or reliability of electric service to all customers;

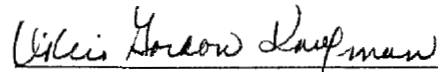
3. In the event the Commission is unable to act on this petition before September 30, order that the pilot study remain in full force and effect until final disposition of the proceeding and the resolution of the FERC Standard Market Design NOPR;

4. As an alternative to the relief requested herein of retail self-service wheeling, require a conservation retail rate and instruct TECo to file a tariff modification to provide that Cargill or any other self-service customer, may receive one MW and one MWh hour credit against standby interruptible tariffs and optional purchase prices for each fractional MW and MWh that the customer tenders to TECo during periods when TECo sells power to the customer at another location in the TECo service area;

5. Process this Petition on an expedited basis due to the impending expiration of the pilot program;

6. Afford the Petitioner a hearing; and

7. Grant such other general relief as is appropriate



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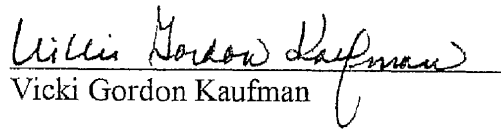
CERTIFICATE OF SERVICE

I HERBY CERTIFY that a true and correct copy of the foregoing Petition of Cargill Fertilizer, Inc. for Permanent Approval of Self-Service Wheeling Program and Request for Expedited Treatment has been furnished by (*) hand delivery on this 16th day of August, 2002 to the following:

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