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September 9, 2002

HAND DELIVERED

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: 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 Territory; FPSC Docket No. 020898-EQ

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Response of Tampa Electric Company to the Motion of Cargill Fertilizer, Inc. to Strike Conclusions not Supported in the Record.

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

JDB/pp
Enclosures

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
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SEC
OTH

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

DOCUMENT NUMBER-DATE

09522 SEP -9 8

FPSC-COMMISSION CLERK

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 territory.)
_____)

Docket No. 020898-EQ
Filed: September 9, 2002

**RESPONSE OF TAMPA ELECTRIC COMPANY
TO THE MOTION OF CARGILL FERTILIZER, INC.
TO STRIKE CONCLUSIONS NOT SUPPORTED IN THE RECORD**

Pursuant to Rule 28-106.204, Florida Administrative Code, Tampa Electric Company ("Tampa Electric") hereby responds to the September 5, 2002 Motion filed by Cargill Fertilizer, Inc. ("Cargill") ("Motion to Strike"), asking this Commission to strike Paragraph 4 of Tampa Electric's response to Cargill's August 16, 2002 Motion requesting the continuance of the current self-service wheeling experiment, on an interim basis, pending resolution of Cargill's August 16, 2002 Petition for permanent self-service wheeling. As discussed below, Cargill's Motion to Strike serves only to undermine its request for interim relief and betrays Cargill's fundamental misunderstanding of its burden of proof in this proceeding. In support whereof, Tampa Electric says:

1. On August 16, 2002, Cargill filed with this Commission a Petition For Permanent Approval Of Self-Service Wheeling Program and Request for Expedited Treatment ("Petition") and a Motion To Continue Self-Service Wheeling Of Waste Heat Cogenerated Power During Resolution Of Petition For Permanent Approval ("Motion for Interim Relief").

2. In Paragraph 3 of its Petition, Cargill asserted the following as justification for permanent self-service wheeling:

DOCUMENT NUMBER-DATE

09522 SEP-98

FPSC-COMMISSION CLERK

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.

3. In reliance on its interpretation of the above-mentioned quarterly reports and in support of the proposition that the requested interim relief would not result in higher cost of electric service to Tampa Electric's ratepayers, Cargill argued in Paragraph 5 of its Motion for Interim Relief as follows:

As more fully set out in Cargill's Petition, the self-service wheeling program complies with the requirements of the pertinent Florida statutes and this Commission's rules on the subject.

4. On August 30, 2002, Tampa Electric filed responses with this Commission in opposition to Cargill's Petition and Motion for Interim Relief. In its response to the assertion in Paragraph 5 of Cargill's Motion for Interim Relief, Tampa Electric pointed out in Paragraph 4 of its pleading:

As discussed in Tampa Electric's response to Cargill's Petition, The benefit-to-cost ratio ("BCR") calculated on the results of the quarterly analysis of the current self-service wheeling experiment period-to-date is 0.85, strongly indicating that the service is not cost effective.

5. Tampa Electric respectfully submits that Cargill's Motion to Strike Paragraph 4 of Tampa Electric's responsive pleading is logically flawed and internally inconsistent. As the moving party requesting interim relief in this proceeding, Cargill has the burden of demonstrating that granting its request for interim relief will not result in harm to other ratepayers and that denial of interim relief would cause Cargill irreparable harm. The issue, therefore, is not whether Tampa Electric has tendered sufficient

evidence to demonstrate that ratepayers will be harmed if the requested interim relief is granted. The issue is, instead, whether Cargill has tendered sufficient evidence to demonstrate that ratepayers will not be harmed and that Cargill will be irreparably harmed if interim relief is not granted.

6. In essence, Cargill now seeks, through its Motion to Strike, to eliminate the reference in Tampa Electric's responsive pleading to the same quarterly compliance filings that Cargill misinterpreted and relied upon both in its Petition and Motion for Interim Relief. Cargill can't reasonably rely upon these quarterly reports in an effort to meet its burden of demonstrating a lack of ratepayer harm if interim relief is granted and, at the same time, object to Tampa Electric's response that the data in question demonstrates, instead, a negative ratepayer impact.

7. As the basis for its Motion to Strike, Cargill asserts at Paragraph 5 of its pleading:

Unless and until these "analyses", referred to in Paragraph 4 of TECO's Response, are the subject of sworn testimony, discovery and cross-examination before the Commission, they are not evidence in this case and cannot for the basis for a decision on Cargill's Motion.

8. Aside from the quarterly compliance reports filed by Tampa Electric in compliance with Order No. PSC-00-1596-TRF-EQ, Cargill has alluded to no data in its Motion for Interim Relief that would shed any light on the ratepayer impact of continued self-service wheeling or provide any support its request for interim relief. In addition, Cargill has claimed no "irreparable harm", other than its exposure to the potential service interruptions that form the justification for the savings that Cargill has enjoyed, as an interruptible customer, over the cost of firm service. If, as Cargill asserts in its Motion to

Strike, the Commission cannot consider the quarterly compliance reports filed by Tampa Electric and can consider only sworn testimony on which discovery and cross-examination has been conducted in ruling on Cargill's Motion for Interim relief, then Cargill's Motion for Interim relief must be denied since Cargill has presented no evidence in support of its request for interim relief that satisfies its own evidentiary standard.

8. Tampa Electric respectfully submits that Cargill's Motion to Strike is simply a "red herring" intended to divert the Commission's attention from the fact that Cargill has failed to meet its burden of proof in connection with its Motion for Interim relief. The quarterly compliance reports at issue have been filed with the Commission, as required, and provided to Cargill on a timely and consistent basis during the two-year experiment period. Tampa Electric's evaluation of this data indicated that self-service wheeling has not been cost-effective. Cargill has chosen to submit no evidence to the contrary. Granting Cargill's motion would leave the Commission with no factual basis for evaluating the impact of Cargill's Motion for Interim Relief on the general body of ratepayers.


WHEREFORE, Tampa Electric respectfully requests that the Commission issue an order denying Cargill's Motion to Strike.

DATED this 9th day of September 2002.

Respectfully submitted,

HARRY W. LONG, JR.
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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

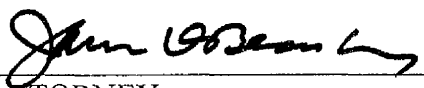
I HEREBY CERTIFY that a true copy of the foregoing Motion, filed on behalf of Tampa Electric Company, has been served by hand delivery (*) or U. S. Mail on this 9th day of September 2002 to the following:

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