

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

Filed: October 18, 2002

**CARGILL FERTILIZER, INC.'S
MOTION FOR ORDER COMPELLING EXPEDITED DISCOVERY**

Cargill Fertilizer, Inc. (Cargill), pursuant to rule 28-106.204, Florida Administrative Code, files this Motion for Expedited Discovery and requests that the Commission enter an order requiring Tampa Electric Company (TECo) to file any objections to discovery within five (5) days of service, to respond to discovery within fifteen (15) days of service, and to provide responses as they are completed rather than waiting until all responses are complete. As grounds therefore, Cargill states:

1. Section 366.051, Florida Statutes, entitles Cargill to transmit self-generated power over the transmission lines of TECo to other Cargill sites *unless* TECo can demonstrate that the operation materially increases the rates of the general body of ratepayers. Cargill requested statutorily-mandated, permanent self-service wheeling service (SSW) from TECo. TECo denied Cargill's request.

2. On August 18, 2002, Cargill filed a petition requesting that the Commission overrule TECo's denial and make permanent the experimental SSW program it approved in Order No. PSC-00-1596-TRF-EQ.

3. At Cargill's request, this case is currently set for expedited hearing on January 16, 2003. The recently released Case Assignment and Scheduling Report (CASR) requires Cargill to file its testimony first on November 13, 2002.

DOCUMENT NUMBER-DATE

11372 OCT 18 02

FPSC-COMMISSION CLERK

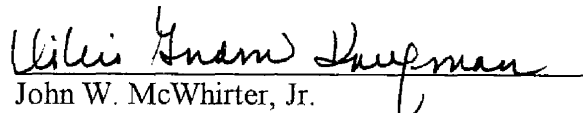
4. Cargill is gravely disadvantaged by the reversal of normal Commission procedure which requires the utility to go first since TECo has the burden of showing that the SSW transmission service requested under the provisions of § 366.051, Florida Statutes, will materially increase rates to the general body of ratepayers. Further, TECo is in sole and confidential possession of essential evidence relating to customer impact and other information related to the SSW wheeling program.

5 Cargill is irreparably harmed by the fact that under the rules of discovery, it will not receive the essential evidence required to present its case until **after** the date set for filing its testimony. It is critical that Cargill receive the information requested in its discovery requests a reasonable time before it is required to present its case so that this case can stay on track for the hearing scheduled for January 16th. Without timely access to the requested information, Cargill will be unable to adequately prepare its case.

6. Under the normal 30-day time period for response to discovery requests, Cargill would not receive answers to its Interrogatories and Production Requests until the day its direct testimony is due. It would not receive answers to its Admissions until after its direct testimony is due. Further, this time line assumes that Cargill receives full and complete answers to its discovery when TECo files its original responses. Without an order expediting discovery, or in the alternative, an order rescheduling the time for Cargill's testimony to be filed, Cargill will not have the necessary information -- which it can obtain **only** from TECo -- to prepare its testimony.

7. Cargill has contacted counsel for TECo and is authorized to represent that TECo objects to this motion.

WHEREFORE, Cargill requests that the Prehearing Officer enter an order expediting discovery in this matter and requiring TECo to: a) file any objections to discovery within five (5) days of service; b) respond to discovery within fifteen (15) days of service; and c) provide responses as they are completed rather than waiting until all responses are complete. In the alternative, Cargill requests that the date it is required to file its direct testimony be moved to 15 days after TECo fully answers the discovery posed by Cargill or is relieved from the obligation to respond.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Cargill Fertilizer, Inc.'s Motion for Order Compelling Expedited Discovery has been furnished by (*) hand delivery or U.S. Mail on this 18th day of October, 2002 to the following:

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