

AUSLEY & MCMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

August 18, 2003

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:

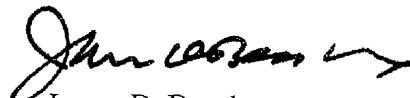
Enclosed for filing in the above docket are the original and fifteen (15) copies of each of the following:

- 07633-03 1. Tampa Electric Company's Motion to Compel Responses to Interrogatories.
- 07634-03 2. Tampa Electric Company's Motion to Compel Production of Documents (Nos. 1-18).
- 07635-03 3. Tampa Electric Company's Motion to Compel Responses to Requests for Admissions (Nos. 1-8).

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

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

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition By Cargill Fertilizer, Inc.) Docket No. 020898-EQ
For permanent approval of self-service wheeling)
to, from and between points within Tampa Electric) Filed: August 18, 2003
Company's service territory)

**TAMPA ELECTRIC COMPANY'S MOTION TO COMPEL
RESPONSES TO INTERROGATORIES**

Pursuant to Rule 1.380, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, Tampa Electric Company ("Tampa Electric" or "Company") hereby requests that this Commission issue an order directing Cargill Fertilizer, Inc. ("Cargill") to produce to Tampa Electric those answers that are responsive to Tampa Electric's First Set of Interrogatories (Nos.1-22) ("Interrogatories") and says:

1. Tampa Electric requests that Cargill be ordered to fully respond to Interrogatory No. 1, which reads as follows:

"In the three-year period prior to Cargill's initiation of self-service wheeling:

- a) *How much uncommitted energy was generated at each of Cargill's generators (i.e. Bartow[Ridgewood] and Riverview[Millpoint]); and*
- b) *To whom did Cargill sell the uncommitted energy and how much energy was sold to each such party annually? "*

2. Cargill has objected to Interrogatory No. 1 based on the assertion that the requested information constitutes proprietary trade secrets. Cargill further objects to providing the requested information based on the assertion that Tampa Electric has more

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FPSC-COMMISSION CLERK

complete and specific information “in that it has a meter on each cogeneration unit and is responsible for handling the transmission of all power sold by Cargill”. Its objections notwithstanding, Cargill volunteers that it will compile the *incomplete* information in its records and supply it upon the execution of an appropriate confidentiality agreement.

3. Tampa Electric is willing to receive and review information that is responsive to Interrogatory No. 1 pursuant to a reasonable non-disclosure agreement. However, Cargill’s assertion that Tampa Electric already has the requested information is incorrect. Tampa Electric cannot determine conclusively from the meter records referred to by Cargill the amount of uncommitted energy generated by Cargill, the identity of the purchasers or the purchase price for each transaction. Therefore, Cargill’s stated intention to provide *incomplete* information in response to Interrogatory No. 1 would deprive Tampa Electric of necessary information. Since Cargill has not questioned the relevance of the requested information, the Commission should order Cargill to produce *all* responsive information that is in Cargill’s actual or constructive possession.
4. Tampa Electric requests that Cargill be ordered to fully respond to Interrogatory No. 2, which reads as follows:

In the first two full years after Cargill began self-service wheeling:

- a. *How much uncommitted energy was generated at each of Cargill’s generators (i.e.*

*Bartow [Ridgewood] and Riverview[Millpoint]);
and*

*b. To whom did Cargill sell the uncommitted
energy and how much energy was sold to
each such party annually*

5. Aside from the temporal element, Interrogatory Nos. 1 & 2 are identical. Therefore, Cargill's objections to Interrogatory No. 2 are the same as its objections to Interrogatory No. 1. Once again, Cargill offers to provide *incomplete* information in response to Interrogatory No. 2 upon the execution of an appropriate confidentiality agreement.
6. Tampa Electric is willing to receive and review information that is responsive to Interrogatory No. 2 pursuant to a reasonable non-disclosure agreement. As discussed in Paragraph 3 above, Cargill's assertion that Tampa Electric already has the requested information is incorrect. Tampa Electric cannot determine conclusively from the meter records referred to by Cargill the amount of uncommitted energy generated by Cargill, the identity of the purchasers or the purchase price for each transaction. Since Cargill has not questioned the relevance of the requested information, the Commission should order Cargill to produce *all* responsive information that is in Cargill's actual or constructive possession.
7. Tampa Electric requests that Cargill be ordered to fully respond to Interrogatory No. 10, which reads as follows:

From the beginning of the self-service wheeling experiment to the present, please identify by date and duration each unplanned outage at Cargill's electric generation facilities located in Tampa Electric's service territory that resulting in under-deliveries or changes to schedules for self-service wheeling?

8. Cargill has objected to Interrogatory No. 10 on the following grounds:

"It [Interrogatory No. 10] is not reasonably calculated to lead to discovery of relevant evidence and is not relevant to the subject matter of this action. Further, the interrogatory is unduly burdensome, in that the production of electricity by Cargill is directly related to the operation of its sulphuric acid plants. The response would require input from the operator of each plant and then a comparison of that data to balancing charges imposed by TECo. The information is already readily available to TECo from its own records of meter readings and imbalance billings and can be produced by TECo at less cost and in less time. The Interrogatory appears to be designed to harass and unduly burden Cargill"

9. Tampa Electric is mystified by Cargill's assertion that the subject matter of Interrogatory No. 10 is not relevant to the subject matter of this proceeding. The requested information could shed light on several clearly relevant issues such as Cargill's ability to operate its generation facilities in a manner that will produce benefits to Cargill and Tampa Electric's general body of ratepayers and the costs to Tampa Electric's general body of ratepayers associated with under deliveries, changes to schedules for self-service wheeling or "gaming" of the system by Cargill. Cargill's objection to providing the requested information on the grounds that Tampa

Electric already has or could compile the requested information is self-contradictory. Cargill's assertion that Tampa Electric already has the requested information is incorrect. In order to produce the requested information Cargill admits that it would need information from its plant operators. Clearly, Tampa Electric would not have access to this information absent the discovery process. As the moving party with the burden of proof in this proceeding, Cargill cannot reasonably complain of the burden associated with producing relevant, responsive information in the discovery process.

10. Tampa Electric requests that Cargill be ordered to fully respond to Interrogatory No. 13, which reads as follows:

What is Cargill Fertilizer's cost per ton to manufacture Diammonium Phosphate and the other products produced at its Riverview (Millpoint) and Bartow (Ridgewood) facilities? Of that cost per ton, what percent is the cost of electricity purchased from Tampa Electric? Please separate by plant and by rate and exclude the impacts of self-service wheeling.

11. Cargill has objected to Interrogatory No. 13 on the strength of Cargill's belief that this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Cargill further objects based on its assertion that the requested information is highly proprietary, confidential business information.

12. Tampa Electric is willing to receive and review information that is responsive to Interrogatory No. 13 pursuant to a reasonable non-disclosure agreement. The requested information may shed light on the nature and scope of benefits and costs associated with Cargill self-service wheeling and, therefore, is directly relevant to the central issue in this proceeding. Furthermore, Cargill has not objected or claimed confidentiality with regard to Interrogatory No. 14, which requests the same information requested in Interrogatory No. 13, with the impacts of self-service wheeling taken into account.
13. Tampa Electric requests that Cargill be ordered to fully respond to Interrogatory No. 15, which reads as follows:

What is the average cost per ton to produce Diammonium Phosphate in Florida and in the United States?
14. Cargill objects to Interrogatory No. 15 based on its assertion that the responsive information constitutes proprietary trade secrets. However, Cargill offers to provide the requested information upon execution of an appropriate confidentiality agreement.
15. Tampa Electric is willing to receive and review information that is responsive to Interrogatory No. 15 pursuant to a reasonable non-disclosure agreement.
16. Tampa Electric requests that Cargill be ordered to fully respond to Interrogatory No. 17, which reads as follows:

Cargill owns and operates a 69kV tie-line between its Bartow (Ridgewood) plant (which is located in Tampa Electric's service territory) and its South Fort Meade mine (which is located in Progress Energy Florida's service territory.) Explain in detail how Cargill would assure that energy purchased from Tampa Electric, including energy purchased under the GSI schedule used to make up under-scheduled wheeling transactions, is not wheeled into Progress Energy Florida's service territory across that tie-line to serve South Fort Meade mine load.

17. Cargill objects to Interrogatory No. 17 based on its belief that the interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding.
18. A full and complete response to Interrogatory No. 17 will shed light on the question of whether self-service wheeled power or power supplied by Tampa Electric to make up for under deliveries by Cargill is being used properly to serve Cargill loads or whether such energy is being exported across territorial boundaries. It is also important to understand whether energy can be imported across territorial boundaries and then "self-service" wheeled to Cargill loads. The answer to this question has a direct bearing of the analysis of ratepayer costs and benefits that is central to this proceeding.
19. Counsel for Tampa Electric has attempted to confer with counsel for Cargill regarding this Motion, but was unable to make contact.

WHEREFORE, Tampa Electric requests an order:

- a) Directing Cargill to prepare and submit to Tampa Electric for review a reasonable non-disclosure agreement covering those portions of its responses to Tampa Electric's First Set of Interrogatories (Nos. 1-22) that Cargill deems to be confidential;
- b) Compelling Cargill to fully respond to Tampa Electric Interrogatory Nos. 1, 2, 10, 13, 15 and 17 or, in the alternative, an order dismissing Cargill's Petition.


DATED this 18th day of August, 2003.

Respectfully Submitted,

HARRY W. LONG JR.
Assistant General Counsel – Regulatory
Tampa Electric Company
P.O. Box 111
Tampa, Florida 33601
(850) 228-1702

And

LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32303
(850) 224-9115

By:  _____

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 18th day of August, 2003 to the following:

Rosanne Gervasi*
Staff Counsel
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. John W. McWhirter, Jr.
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman &
Arnold
400 North Tampa Street, Suite 2450
Tampa, FL 33601-3350

Ms. Vicki Gordon Kaufman*
Mr. Joseph A. McGlothlin
Mr. Timothy J. Perry
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman &
Arnold
117 South Gadsden Street
Tallahassee, FL 32301



ATTORNEY