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PLEASE REPLY TO:  
  
TALLAHASSEE

TALLAHASSEE OFFICE:  
117 SOUTH GADSDEN  
TALLAHASSEE, FLORIDA 32301  
(850) 222-2525  
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September 4, 2003

**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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03 SEP -4 PM 1:22  
COMMISSION  
CLERK


Re: Docket No.: 020898-EQ

Dear Ms. Bayo:

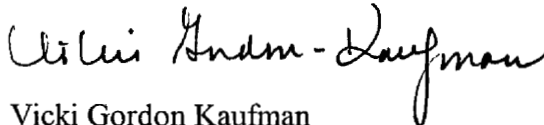
On behalf of Cargill Fertilizer, Inc. (Cargill), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Cargill Fertilizer, Inc.'s Response to Tampa Electric Company's Motion for Extension of Time to File Testimony and Motion to Compel, and Motion for Protective Order.

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

RECEIVED & FILED  
  
FPSC-BUREAU OF RECORDS

Sincerely,

  
Vicki Gordon Kaufman

AUS \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP \_\_\_\_\_  
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CTR \_\_\_\_\_  
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MMS \_\_\_\_\_  
SEC 1 \_\_\_\_\_  
OTH \_\_\_\_\_

MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, KAUFMAN & ARNOLD, P.A.

18277 SEP -4 03

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 area.

Docket No. 020898-EQ

Filed: September 3, 2003

**Cargill Fertilizer, Inc.'s Response to Tampa Electric Company's  
Motion for Extension of Time to File Testimony  
And Motion to Compel,  
And Motion for Protective Order**

Cargill Fertilizer, Inc. (Cargill), pursuant to rule 28-106.204, Florida Administrative Code, files its Response to Tampa Electric Company's (TECo) Motion for Extension of Time to File Testimony and Motion to Compel, and Motion for Protective Order. TECo's motion should be denied and Cargill's Motion for Protective Order should be granted.

TECo failed in its attempt to secure additional time to prepare its testimony when the Prehearing Officer denied its request for an extension of time in Order No. PSC-03-0945-PCO-EQ. TECo now attempts to create a discovery dispute, where none exists, in a transparent attempt to gain indirectly what the Prehearing Officer directly denied. In essence, TECo seeks a back door reconsideration of Order No. PSC-03-0945-PCO-EQ<sup>1</sup> in the guise of a discovery dispute.

Cargill has fully complied with all applicable discovery requirements and has done its best to cooperate with TECo's unilateral demands. The Prehearing Officer should summarily deny TECo's motion, instruct TECo to refrain from such frivolous filings in this case in the future, and grant Cargill's Motion for Protective Order.

<sup>1</sup> TECo's appropriate remedy would have been to seek reconsideration of Order No. PSC-03-0945-PCO-EQ. See, rule 25-22.0376, Florida Administrative Code.

DOCUMENT NUMBER DATE

08277 SEP -4 8

FPSC-COMMISSION CLERK

## Background

1. On July 30, 2003, TECo filed a Motion for Clarification of Order No. PSC-03-0866-PCO-EQ, in which the Prehearing Officer set out the relevant procedural dates, including filing dates for testimony, in this case. In addition to seeking "clarification" that it be permitted to file two sets of testimony, TECo sought a ruling that it not be required to file its testimony until 15 days after Cargill responded to TECo's discovery.<sup>2</sup> Both requests were denied in Order No. PSC-03-0945-PCO-EQ.

2. In an attempt to circumvent the Prehearing Officer's Order, TECo sets out several inadequate grounds for *yet again* seeking a modification of the due date for its testimony.

### Response to Motion for Extension of Time to File Testimony

#### Document Production

3. TECo voices a number of complaints about Cargill's production of documents, which has now already occurred. None have merit.<sup>3</sup>

4. First, TECo complains that it must go to Cargill's premises to review the voluminous documents that are responsive to certain of TECo's production requests.<sup>4</sup> It complains that Cargill did not "object" to providing such documents at TECo's offices, as TECo instructed. As an initial matter, Cargill did object. In its Initial Objections (Objection No. 5), filed on August 11, 2003, Cargill objected to any document request that "purported to expand Cargill's obligations under the Florida Rules of Civil Procedure or Florida Law." TECo's demand just does that -- it attempts to expand Cargill's obligations beyond what is required under Florida law. In *Winn Dixie v. Teneyck*, 656 So.

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<sup>2</sup> Paragraph 17 of TECo's Motion for Extension, to which this response is addressed, looks very similar to paragraph 4 of TECo's original request for extension of time included in its Motion for Clarification, filed on July 30, 2003.

<sup>3</sup> Discovery in this case does not even conclude until October 15<sup>th</sup>, some six weeks from now. This raises further questions regarding the validity of TECo's motion.

<sup>4</sup> On September 2<sup>nd</sup>, Cargill provided to TECo (both in Tampa and Tallahassee), non-voluminous documents in response to TECo's production requests. Production of voluminous documents occurred at Cargill's premises today.

2d 1348 (Fla. 1st DCA 1995), the court noted (at footnote 2) that the requesting party was *not* authorized by rule 1.350 to require production of documents to be made at her attorney's office.<sup>5</sup> Thus, TECo's attempt to impose such a requirement in this case was inappropriate.

5. Further, it was not necessary for Cargill to "object" to TECo's inappropriate instruction because Cargill complied with rule 1.350(b), Florida Rules of Civil Procedure. That rule provides that when producing documents, the producing party shall "produce them as they are kept in the usual course of business . . . ." This is exactly what Cargill did. For example, in response to TECo Production Request No. 11, Cargill responded:

Such documents will be produced as they are kept in the ordinary course of business at Cargill's Bartow plant at a mutually agreed upon time and date. The documents are in the custody of Tom Miller, Superintendent of Sulfuric Operations.

In fact, well before Cargill's responses were even due, Cargill informed TECo that it intended to produce the voluminous documents where they were kept in the ordinary course of business and invited TECo to make appropriate arrangements for such a review on site.<sup>6</sup>

6. This procedure is in accord with rule 1.350, Florida Rules of Civil Procedure. *See, Evangelos v. Dachiel*, 553 So.2d 245 (Fla. 3d DCA 1989) (production of documents at plaintiff's place of business complies with rule 1.350); *Cooper v. Fulton*, 117 So.2d 33, 36 (Fla. 3d DCA 1960) ("Where records of a business are to be examined for discovery, ordinarily they should not be required to be delivered to the adversary, but to be made available for inspection, etc., at the owners' place of business, during reasonable business hours, unless the parties mutually agree to some other place and time.") (citations omitted); *Harley Shipbuilding Corp. v. Fast Cats Ferry Service, LLC.*,

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<sup>5</sup> The court said: "In making her request for production, Ms. Teneyck *insisted on production at a place unauthorized by the rule*. The rule requires only that "the producing party shall either produce [the document] as [it is] kept in the usual course of business or shall identify [it] to correspond with the categories in the request." Florida Rules of Civil Procedure, rule 1.350(b)." *Teneyck* at 1351, n.2

<sup>6</sup> See Exhibit A to TECo motion. In fact, TECo personnel will review the documents beginning at 9 am today.

820 So.2d 445, 448-49 (Fla. 2d DCA 2002) (Harley's offer to produce documents as kept in the usual course of business was contemplated by rule 1.350(b); the trial court's requirement that Harley instead copy voluminous documents and deliver them to the opposing party was contrary to the dictates of rule 1.350).

7. TECo itself has responded to document production requests in just this way. For example, in Docket No. 030001-EI, TECo responded to Staff's First Request for Production of Documents by offering to make the documents requested by Staff available at a date and time mutually agreeable to TECo and Staff, even though Staff had requested that the documents be produced at the Commission.<sup>7</sup>

8. Despite whatever TECo's "strong preference" may be regarding where documents should be produced, the case law cited above (and TECo's own discovery responses) demonstrate that Cargill is not required to copy voluminous documents and deliver them to TECo, but may produce them at the location where they are kept in the normal course of business.

9. Next, TECo complains that it was unable to review the documents on September 2<sup>nd</sup>, the due date for Cargill's *response*. Rule 1.350(b), Florida Rules of Procedure, emphasis provided, provides, in pertinent part, that: "The party to whom the request is directed shall serve a *written response* within 30 days after service of the request." Further, in his treatise on Florida procedure, Trawick states:

The party to whom the request is directed *must serve a response* to it within 30 days after service of the request. . . . Production, inspection or entry is not required within the time [30 days]. Only the response is required.

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<sup>7</sup> Attachment A, Staff's First Request for Production of Documents, March 4, 2003; TECo's Answers to Staff's First Request for Production of Documents, April 8, 2003 (. . . "the company will make the documents requested by Staff available for Staff review at a date and time mutually convenient to Staff and Tampa Electric. . .")

Henry P. Trawick , Jr., *Florida Practice and Procedure*, § 16-10 (2001), emphasis supplied. Not only did Cargill comply with this requirement and provide a timely written response, it actually informed TECo well in advance of the due date of its response that documents would be produced at the Cargill premises.<sup>8</sup> TECo apparently unreasonably expected Cargill to make the documents available (as opposed to Cargill's *response*) on the morning of September 2<sup>nd</sup>, when the *responses* themselves were not due until the close of business. Counsel for Cargill told counsel for TECo that the documents would be made available at a mutually convenient date and time and Cargill's response says the same. This is entirely reasonable and comports with applicable discovery requirements. Production of the documents occurred as quickly as possible, beginning at 9 am on September 4<sup>th</sup>, just two days after Cargill's response.

10. Finally, TECo complains about its inability to review documents at different locations simultaneously. The documents, which TECo was to review at the Cargill premises, are located at two separate Cargill plants -- one in Bartow and one in Tampa. TECo complains that Cargill required it to review the documents sequentially rather than proceeding simultaneously at both sites at once. Mr. Roger Fernandez, who has responsibility for this case as part of his duties at Cargill, needed to be present to supervise the production of the documents, many of which were confidential. Mr. Fernandez could not be in two places at one time.

11. Reasonable limits and restrictions on document production, such as this one, are permissible and are not objectionable. *See, Federal Savings and Loan Insurance Corporation v. Village Creek Joint Venture*, 130 F.R.D. 357 (N.D. TX 1989) (allowing the producing party to set inspection guidelines to be followed by inspecting parties so long as the inspecting parties had the opportunity to inspect the documents requested. In *Village Creek*, the producing party was allowed

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<sup>8</sup> See Exhibit A to TECo's motion.

to require the inspecting parties to do so at different times rather than at the same time).<sup>9</sup>

12. The procedure Cargill employed for document production was reasonable and did not prejudice TECo, nor does TECo explain how it has been harmed.

#### Depositions

13. TECo also appears to complain about the scheduling of depositions for Cargill witnesses, though exactly what TECo's complaint is about is not clear. In an attempt to accommodate TECo's request, counsel for Cargill informed counsel for TECo that Cargill witnesses Fernandez and Kordecki would be available for depositions on September 8<sup>th</sup>-- *the very day TECo requested*. Cargill also agreed to make its two remaining witnesses available on September 10<sup>th</sup>.<sup>10</sup>

14. TECo asked that Cargill provide dates for the availability of its witnesses for deposition and asked that the depositions be scheduled no earlier than September 5<sup>th</sup>. In fact, TECo *specifically requested* that depositions be scheduled for some witnesses on September 8<sup>th</sup>. Cargill is puzzled as to why TECo now claims that Cargill has been "intransigent" regarding deposition scheduling, as two witnesses will be produced *exactly* when TECo demanded, and the other two will give their depositions just two days later.<sup>11</sup>

15. Cargill is in compliance with all discovery requirements, and beyond that has done its best to accommodate TECo's unreasonable and unilateral demands. TECo has raised nothing in its motion that warrants an extension of time to file its testimony. Even if all of TECo's claims were

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<sup>9</sup> In *Village Creek*, at 360, the court stated: "I can perceive no reasoned basis for precluding a responding party from setting inspection guidelines on the procedures to be followed by the inspecting parties, so long as each has an opportunity to inspect all documents which have been requested by it or by others."

<sup>10</sup> In the same letter in which Cargill confirmed the availability of its witnesses for deposition, it asked TECo to do the same for the TECo witnesses Cargill wishes to depose. Though Cargill sent this letter to TECo on August 29<sup>th</sup>, TECo has yet to respond. Further, TECo's speculation about the need for late-filed exhibits before the depositions have even occurred hardly supports its motion.

<sup>11</sup> Cargill is not aware of any requirement that would necessitate witnesses rearranging their entire schedules at TECo's unilateral demand.

taken as true, which Cargill vigorously disputes as discussed above, TECo has failed to demonstrate why it is entitled to an *additional 14 days* to file its testimony.<sup>12</sup> As mentioned earlier, it appears that TECo's real issue is with the procedural schedule in this matter, not with imagined discovery violations.

16. TECo has asked that it be permitted to file its testimony on October 1<sup>st</sup>; this is currently the due date for rebuttal testimony and prehearing statements. Cargill opposes such a request, but to the extent that it (or any portion of it) is granted, Cargill's time for filing its rebuttal testimony must be extended accordingly and should in no way be condensed as under the current schedule, Cargill has just two weeks to file rebuttal testimony.

#### **Motion to Compel**

17. Last, TECo complains that Cargill has attempted to restrict its access to a highly confidential proprietary Cargill business document, called the Commitment Request. At the outset, it should be noted that Production Request No. 2, which is the subject of TECo's motion to compel, is very broad. It reads:

**REQUEST NO. 2:** Provide *all documents* related to evaluated, proposed, planned, implemented or completed generation expansion projects for Cargill electric generation facilities located within the Tampa Electric service area from January 1, 1997 through the present date.<sup>13</sup>

18. In its Initial Objections, filed on August 11<sup>th</sup>, Cargill reserved its right to object as it gathered and reviewed the actual documents. Cargill stated:

The Objections stated herein are *preliminary in nature* and are made at this time for the purpose of complying with the ten-day requirement of Order No. PSC-03-0866-PCO-EQ, issued in this docket on July 24, 2003, by the Florida Public Service Commission (the Commission) in the above-referenced docket. *Should additional grounds for objection be discovered as Cargill prepares its Responses to the above-referenced set of requests, Cargill reserves the right to supplement, revise, or modify*

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<sup>12</sup> There is no requirement that *all* discovery be completed before TECo files its testimony.

<sup>13</sup> Emphasis added.



*its objections at the time that it serves its Responses.* Moreover, should Cargill determine that a Protective Order is necessary with respect to any of the material requested, Cargill reserves the right to file a motion with the Commission seeking such an order at the time that it serves its Responses.<sup>14</sup>

Cargill further noted that it objected to each request that was overly broad (general objection no. 2), that called for the production of confidential proprietary business information, including trade secrets (general objection no. 4) or that was irrelevant (general objection no. 7).

19. In its initial review, Cargill identified a number of documents responsive to Production Request No. 2. Such documents are detailed in a chart contained in Cargill's response.<sup>15</sup> These documents, of which there are many, were produced to TECo on September 4<sup>th</sup>. While Cargill notes that all the documents produced are confidential, there is one document, the Commitment Request, which contains trade secret information and is highly confidential and proprietary to Cargill. Due to the sensitive nature of the document, as well as its limited relevance to the issues in this case, Cargill, as a prudent business entity, must restrict its dissemination.

20. The Commitment Request, a 30-page document which contains a proprietary, confidential analysis of Cargill's electric savings and production information, was produced to TECo's counsel today. A small portion of the highly confidential information in the document, containing highly sensitive numerical information regarding phosphate production, price differentials between elemental sulfur and sulfuric acid, and estimated rates of return was redacted. However, the entire narrative and recommendation was provided to TECo counsel.

21. Rule 1.280(c), Florida Rules of Civil Procedure, provides that the Prehearing Officer may enter an order including: "(2) that discovery may be had only on specified terms and conditions . . . (7) that a trade secret or other confidential research, development, or commercial information not

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<sup>14</sup> Emphasis added.

<sup>15</sup> Attachment B.

be disclosed or be disclosed only in a designated way." The disclosure Cargill made today was a reasonable accommodation of TECo's request when balanced against the Commitment Request's sensitive and proprietary nature.

22. Even more restrictive requirements than the one imposed here, such as barring any disclosure, have been entered where highly proprietary business documents are involved. *See, Rare Coin-It, Inc. v. I.J.E., Inc.*, 625 So.2d 1277, 1278–79 (Fla. 3d DCA 1993) (court barred disclosure of a computer source code, finding it to be a trade secret and further finding that the moving party had failed to demonstrate a reasonable necessity for production); *Higgs v. Kampgrounds of America*, 526 So.2d 980 (Fla. 3d DCA 1988) (quashing an order requiring disclosure of confidential taxpayer information); *East Colonial Refuse Service, Inc. v. Velocci*, 416 So.2d 1276 (Fla. 5<sup>th</sup> DCA 1982) (customer list protected from disclosure in its entirety). Thus, the limited restriction on this one sensitive document is entirely reasonable.

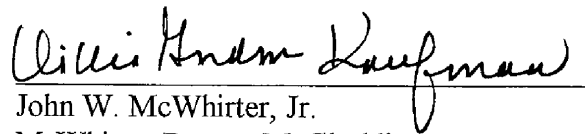
23. TECo states in its motion that no description of the document or explanation regarding the document was provided; this is not correct. Counsel for Cargill specifically told counsel for TECo that the Commitment Request was a highly confidential business document containing, for example, Cargill's methodology for evaluation of capital projects, its required pay back on such projects, as well as its required margins. It is a financial and strategic document containing highly proprietary information, which is closely guarded by Cargill. And, TECo has, at this point, already reviewed the document.

24. TECo argues that it needs the document to understand Cargill's generation expansion plans and to determine "whether the benefits and costs observed during the self-service wheeling experiment are representative of the costs and benefits to ratepayers that the Commission might

expect if self-service wheeling is made permanent...<sup>16</sup> To extent there is any merit to TECo's claim, the document has been provided.

**WHEREFORE**, the Prehearing Officer should enter an order:

1. Denying TECo's Motion for Extension of Time to File Testimony;
2. Denying TECo's Motion to Compel;
3. Granting Cargill's Motion for Protective Order as to the Commitment Request; and
4. To the extent that TECo is given any extension of time to file its testimony, extend Cargill's time to file rebuttal testimony day for day.



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Facsimile: (850) 222-5606

Attorneys for Cargill Fertilizer, Inc.

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<sup>16</sup> TECO Motion at 11.

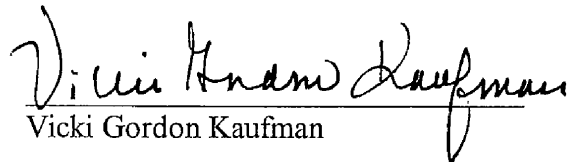
## CERTIFICATE OF SERVICE

I HERBY CERTIFY that a true and correct copy of the foregoing Cargill Fertilizer, Inc.'s Response to Tampa Electric Company's Motion for Extension of Time to File Testimony And Motion to Compel, and Motion for Protective Order has been furnished by (\*) hand delivery or U.S. Mail on this 3<sup>rd</sup> day of September, 2003 to the following:

(\*) Rosanne Gervasi  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

(\*) James D. Beasley  
Ausley & McMullen  
227 South Calhoun Street  
Post Office Box 391  
Tallahassee, Florida 32302

Harry W. Long, Jr.  
Tampa Electric Company  
Post Office Box 111  
Tampa, Florida 33601

  
Vicki Gordon Kaufman

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

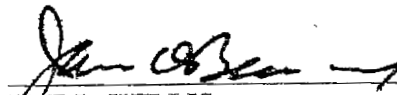
In re: Fuel and Purchased Power Cost Recovery )  
Clause with Generating Performance Incentive ) DOCKET NO. 030001-EI  
Factor. ) FILED: April 8, 2003  
\_\_\_\_\_ )

**TAMPA ELECTRIC COMPANY'S ANSWERS  
TO THE FLORIDA PUBLIC SERVICE COMMISSION STAFF'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1 - 6)**

Tampa Electric Company ("Tampa Electric" or "the company") files this its Answers to the Florida Public Service Commission Staff's First Request for Production of Documents (Nos. 1-6) and states that the company will make the documents requested by Staff available for Staff review at a date and time mutually convenient to Staff and Tampa Electric with Tampa Electric reserving the right to seek confidential protection of portions of its Answers to Staff's First Request for Production of Documents Nos. 2, 4 and 6.

DATED this 8<sup>th</sup> day of April 2003.

Respectfully submitted,



LEE L. WILLIS  
JAMES D. BEASLEY  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

APR 09 2003

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer to Staff's First Production of Documents, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 8<sup>th</sup> day of April 2003 to the following:

Mr. Wm. Cochran Keating, IV\*  
Senior Attorney  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0863

Mr. James A. McGee  
Associate General Counsel  
Progress Energy Florida, Inc.  
Post Office Box 14042  
St. Petersburg, FL 33733

Mr. Joseph A. McGlothlin  
Ms. Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin, Davidson,  
Decker, Kaufman & Arnold, P.A.  
117 S. Gadsden Street  
Tallahassee, FL 32301

Mr. Charles J. Beck  
Deputy Public Counsel  
Office of Public Counsel  
111 West Madison Street – Suite 812  
Tallahassee, FL 32399-1400

Mr. Norman Horton  
Messer Caparello & Self  
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Mr. John T. Butler  
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200 South Biscayne Boulevard  
Suite 4000  
Miami, FL 33131-2398

Mr. William Walker  
Florida Power & Light Company  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

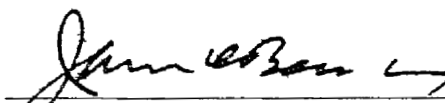
Mr. R. Wade Litchfield  
Florida Power & Light Company  
700 Universe Blvd.  
Juno Beach, FL 33408

Mr. John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin, Davidson,  
Decker, Kaufman & Arnold, P.A.  
400 North Tampa Street, Suite 2450  
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Ms. Susan Ritenour  
Gulf Power Company  
One Energy Place  
Pensacola, FL 32520

Mr. Jeffrey A. Stone  
Mr. Russell A. Badders  
Beggs & Lane  
Post Office Box 12950  
Pensacola, FL 32591-2950

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\_\_\_\_\_  
ATTORNEY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power  
cost recovery clause with  
generating performance incentive  
factor.

DOCKET NO. 030001-EI

DATED: MARCH 4, 2003

STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
TO TAMPA ELECTRIC COMPANY (NOS. 1 - 6)

Pursuant to Rule 25-22.034, Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, the Staff of the Florida Public Service Commission, by and through its undersigned attorney, hereby serves the following Request for Production of Documents upon Tampa Electric Company.

Please produce the following documents at the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Gerald L. Gunter Building, Tallahassee, Florida 32399-0850, no later than thirty days after service of this request for the purpose of inspection and copying:

DEFINITION

As used herein, the word "documents" shall mean the original and any non-identical copies of any writing or record, including but not limited to a book, pamphlet, periodical, letter, memorandum, telegram, report, study, interoffice or intraoffice memorandum, memorandum reflecting an oral communication,

MAR 05 2003

RECEIVED

Attachment A  
Page 3 of 7

STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
TO TAMPA ELECTRIC COMPANY (NOS. 1-6)  
DOCKET NO. 030001-EI  
PAGE 2

handwritten or other notes, working paper, draft, application, permit, chart, paper, graph, survey, index, tape, disc, data sheet or data processing card, computer printout, or any other written, recorded, transcribed, filed or graphic matter, however produced or reproduced.

DOCUMENTS REQUESTED

1. Please provide the RFP(s) and solicitation(s) that Tampa Electric used in 1997 for selecting a waterborne coal transportation service provider.
2. Please provide the current waterborne coal transportation contract between Tampa Electric Company and TECO Transport.
3. Please provide all RFPs and solicitations for waterborne coal transportation service that have been prepared by Tampa Electric for issuance in 2002 or 2003.
4. Please provide all documents showing market analyses for each segment of the waterborne coal transportation service currently provided by TECO transport to Tampa Electric.

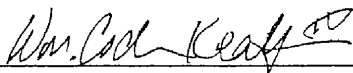
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STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
TO TAMPA ELECTRIC COMPANY (NOS. 1-6)  
DOCKET NO. 030001-EI  
PAGE 3

5. Please provide all written and electronic responses by bidders to each of Tampa Electric's RFPs and solicitations for waterborne coal transportation service issued during 2002 and 2003 for contract(s) beginning January 1, 2004.
  
6. Please provide all written and electronic responses by bidders to each of Tampa Electric's RFPs and solicitations for waterborne coal transportation service issued during 1997 and 1998 for contract(s) beginning January 1, 1999.

  
\_\_\_\_\_  
WM. COCHRAN KEATING IV  
Senior Attorney  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
(850) 413-6193

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power  
cost recovery clause with  
generating performance incentive  
factor.

DOCKET NO. 030001-EI

DATED: MARCH 4, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one correct copy of  
STAFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO TAMPA ELECTRIC  
COMPANY (Nos. 1 - 6) has been served by U.S. Mail to James  
Beasley/Lee Willis, Ausley & McMullen Law Firm, Post Office Box  
391, Tallahassee, Florida, 33702, on behalf of Tampa Electric  
Company, and that a true and correct copy thereof has been  
furnished to the following, by U.S. Mail, this 4<sup>th</sup> day of March,  
2003:

Progress Energy Florida, Inc.  
James McGee  
P. O. Box 14042  
St. Petersburg, FL 32733-4042

Florida Power & Light Co.  
Bill Walker  
215 South Monroe Street,  
Ste. 810  
Tallahassee, FL 32301-1859

Florida Industrial Power Users  
Group  
c/o John McWhirter, Jr.  
McWhirter Reeves Law Firm  
400 N. Tampa Street, Ste. 2450  
Tampa, FL 33602

Florida Public Utilities Co.  
George Bachman  
P. O. Box 3395  
West Palm Beach, FL 33402-3395

Gulf Power Company  
Susan D. Ritenour  
One Energy Place  
Pensacola, FL 32520-0780

McWhirter Law Firm  
Vicki Kaufman  
117 S. Gadsden Street  
Tallahassee, FL 32301

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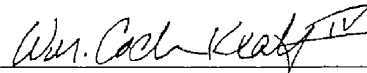
Messer Law Firm  
Norman H. Horton, Jr.  
P. O. Box 1876  
Tallahassee, FL 32302-1876

Office of Public Counsel  
Jack Shreve/Rob Vandiver  
c/o The Florida Legislature  
111 W. Madison Street, #812  
Tallahassee, FL 32399-1400

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200 South Biscayne Blvd.  
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Miami, FL 33131-2398

Tampa Electric Company  
Angela Llewellyn  
Regulatory Affairs  
P. O. Box 111  
Tampa, FL 33601-0111

Beggs & Lane Law Firm  
Jeffrey Stone & Russell Badders  
P. O. Box 12950  
Pensacola, FL 32591-2950



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WM. COCHRAN KEATING IV  
Senior Attorney  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
(850) 413-6193

**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. 020898-EQ

**CARGILL FERTILIZER, INC.'S RESPONSES TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-16)  
(PUBLIC VERSION)**

**REQUEST NO. 2:** Provide all documents related to evaluated, proposed, planned, implemented or completed generation expansion projects for Cargill electric generation facilities located within the Tampa Electric service area from January 1, 1997 through the present date.

**RESPONSE:** Subject to Cargill's specific objections, such documents will be produced for inspection and copying at the Cargill facility(ies) as they are kept in the ordinary course of business at a mutually agreed upon time and date.

Cargill has only one such project: Turbine Generator # 2 at its Riverview facility. Documents for this major construction project were compiled between 1997 and 2000 and are too numerous to list. A list of the various categories of documents is provided in the chart below. In addition, some of the documents contain proprietary trade secrets. These proprietary documents will only be produced

to TECo's attorneys and consultants who have executed a confidentiality agreement. However, due to the highly proprietary nature of the documents, Cargill objects to disclosing the information to TECo's engineering, accounting or operational personnel.

<u>Document</u>	<u>Custodian</u>
Confidential commitment request and financial records.	Larry Gedling, Accounting Department, Cargill's Riverview Facility.
O & M manual.	Henry Thorpe, Engineering Manager, Cargill's Riverview Facility.
Project files.	Henry Thorpe, Engineering Manager, Cargill's Riverview Facility.
Engineering file for project execution.	Henry Thorpe, Engineering Manager, Cargill's Riverview Facility.
Construction documents, plans and specifications.	Henry Thorpe, Engineering Manager, Cargill's Riverview Facility.
Contract and subcontract files.	Henry Thorpe, Engineering Manager, Cargill's Riverview Facility.