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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition by Cargill Fertilizer, Inc. for permanent Approval of self-service Wheeling to, from, and between Points with Tampa Electric Company's service area.

Docket No. 020898-EQ

COMMISSION CLERK

Filed: October 23, 2003

JOINT MOTION TO APPROVE SETTLEMENT

Tampa Electric Company and Cargill Fertilizer, Inc. (the Parties) move this Commission for entry of a Final Order approving the attached Settlement Agreement. Such Agreement resolves all issues between the Parties in this matter in a reasonable manner without the time, expense and uncertainty of further litigation. The Parties further request that the Commission relieve Cargill of any obligation under the corporate undertaking set out in Order No. PSC-02-1451-PCO-EQ consistent with the Settlement Agreement.

WHEREFORE, the Parties respectfully request that this Settlement Agreement be approved in its entirety.

Respectfully submitted this 23rd day of October, 2003.

[Handwritten signature of Vicki Gordon Kaufman]

John W. McWhirter Vicki Gordon Kaufman

On behalf of Cargill Fertilizer, Inc.

[Handwritten signature of Harry Long, Jr.]

Harry Long, Jr.

On behalf of Tampa Electric Company

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FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Joint Motion to Approve Settlement has been furnished by hand delivery to the following this 23<sup>rd</sup> day of October, 2003:

Roseanne Gervasi  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

  
Vicki Gordon Kaufman

## SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into this 21st day of October, 2003 by and between Tampa Electric Company (Tampa Electric), its successors and assigns and Cargill Fertilizer, Inc. (Cargill), its successors and assigns, (collectively, the Parties).

WHEREAS, Tampa Electric is a regulated public utility providing retail electric service to end users under the terms and conditions of tariffs and agreements approved by the Florida Public Service Commission (FPSC);

WHEREAS, Cargill is a retail customer of Tampa Electric that operates Qualifying Facilities (QF) that produce power for internal consumption and exports such power using the Tampa Electric Open Access Transmission Tariff (OATT);

WHEREAS, the Parties have a disputed proceeding before the FPSC denominated Docket No. 020898-EQ;

WHEREAS, Cargill has existing QF generation capacity and internal load at its Riverview facility in Hillsborough County, its Green Bay facility in Polk County and its Bartow facility in Polk County;

WHEREAS, Cargill wishes to have the benefit of energy produced by its existing QF facilities at the Riverview, Green Bay and Bartow sites to avoid interruption and the need to purchase optional provision power at any of these sites and to cover planned and unplanned maintenance outages of its QF and sulfuric acid production facilities at any of these sites;

WHEREAS, Tampa Electric is willing, for purposes of settlement and subject to FPSC approval, to purchase Cargill QF energy generated at Cargill's Riverview, Green Bay and Bartow sites, and simultaneously sell an equivalent amount of energy from its system resources to Cargill at the Riverview, Green Bay or Bartow sites, as directed by Cargill, in order to assist Cargill in avoiding service interruptions or the need to purchase optional provision power and to cover planned and unplanned maintenance outages;

WHEREAS, the Parties wish to amicably resolve the disputed issues involved in the above-referenced proceeding and to avoid the time and expense of further litigation and the uncertainties of such litigation;

NOW, THEREFORE, in consideration of the foregoing, said Parties do mutually agree as follows:

1. Pursuant to the terms and conditions set forth below, Tampa Electric, at Cargill's request, will purchase energy generated by Cargill's Riverview, Green Bay or Bartow QFs at \$1.00 per MWH and sell an equivalent amount of either Exchange Optional Provision ("EOP") energy or Maintenance Optional Provision ("MOP") energy to Cargill's Riverview, Green Bay or Bartow facilities as directed by Cargill.

### EOP

2. EOP energy shall be available to Cargill during those periods when Cargill would otherwise be subject to interruption or the purchase of Optional

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Provision Power pursuant to Tampa Electric rate schedules SBI-1, SBI-3 or any other successor rate schedule applied to service provided to Cargill's Riverview, Green Bay or Bartow facilities ("Applicable Tariffs"). The amount of EOP energy available to Cargill at any given time shall be equal to the amount of energy simultaneously tendered by Cargill for purchase by Tampa Electric from Cargill's Riverview, Green Bay or Bartow QF facilities. There shall be no limit on the amount of EOP energy that Cargill may purchase pursuant to the terms of this agreement.

3. Tampa Electric's Optional Provision service is provided where the utility may buy power from the market at the direction of the customer and pass through the cost of such purchased energy to serve interruptible load during periods when the company would otherwise interrupt such customers because of the lack of Tampa Electric system resources.
4. The total price that Cargill shall pay for EOP power shall be equal to the price paid by Tampa Electric to Cargill for energy simultaneously tendered by Cargill to Tampa Electric from Cargill's Riverview, Green Bay and Bartow facilities plus \$2.00 per MegaWattHour ("MWH") plus any applicable taxes and governmental fees. (See Attachment 1).
5. In the event that Tampa Electric notifies Cargill of an impending service interruption or need to purchase optional provision power pursuant to the Applicable Tariffs, and the stated probability of either event in such notice is 50% or greater and the predicted interruption or need to purchase optional provision power fails to materialize within the timeframe specified in the notice, then Cargill shall be permitted to purchase EOP energy during the predicted hours of interruption or optional provision purchases pursuant to the terms set forth in paragraph 4 above. To the extent Cargill has purchased sufficient EOP energy to meet the load that otherwise would be subject to interruption and optional provision purchases, it will not be subject to interruption or optional provision charges if the predicted interruption or need to purchase optional provision power materializes.
6. To the extent that Cargill has failed to tender for purchase by Tampa Electric an amount of energy that is equivalent on a real time basis to the amount of EOP energy that is needed to avoid interruption and additional optional provision energy is not available on the wholesale market, the service to any such Cargill designated delivery point will be completely interrupted and any energy tendered by Cargill during such periods will be purchased by Tampa Electric at its then current as-available energy cost pursuant to Tampa Electric rate schedule COG-1. Any energy tendered by Cargill for purchase by Tampa Electric in excess of the amount of EOP energy purchased by Cargill, will be purchased by Tampa Electric at its then current as-available energy cost pursuant to Tampa Electric rate schedule COG-1.
7. In the event that a service interruption or optional provision purchase occurs without prior notice from Tampa Electric or if the notice indicates the probability of interruption or optional provision purchase are both under 50%, and Cargill is exporting sufficient energy from its Riverview, Green Bay or Bartow QF facilities to qualify Cargill for the purchase of EOP energy pursuant to paragraph 2 above, then Cargill shall be deemed to have purchased EOP energy pursuant to paragraph 4 above without the requirement that Cargill shall have formally tendered such export energy to Tampa Electric.

**MOP**

8. Cargill shall be entitled to purchase up to 8,000 MWH per calendar year of MOP energy to cover planned and unplanned outages of its Riverview, Green Bay and Bartow QFs and sulfuric acid production facilities on the terms and conditions specified herein. The amount of MOP energy available to Cargill at any given time shall be equal to the amount of energy simultaneously tendered by Cargill for purchase by Tampa Electric from Cargill's Riverview, Green Bay or Bartow QF facilities.
9. For the first 4,000 MWH of MOP energy purchased by Cargill in each calendar year, Cargill shall pay a price equal to the price paid by Tampa Electric to Cargill for energy simultaneously tendered by Cargill to Tampa Electric from Cargill's Riverview, Green Bay or Bartow facilities plus \$6.00 per MWH. For the next 4000 MWH of MOP energy purchased by Cargill in each calendar year, Cargill shall pay a price equal to the price paid by Tampa Electric to Cargill for energy simultaneously tendered by Cargill to Tampa Electric from Cargill's Riverview, Green Bay or Bartow facilities plus \$7.00 per MWH. The price that Tampa Electric shall pay for such power simultaneously tendered by Cargill from its Riverview, Green Bay or Bartow facilities shall be \$1.00 per MWH. Any energy tendered by Cargill for purchase by Tampa Electric in excess of the amount of MOP energy purchased by Cargill, will be purchased by Tampa Electric at its then current as-available energy cost pursuant to Tampa Electric rate schedule COG-1. (See Attachment 1).

**General**

10. The term of this Settlement Agreement shall be from the date of approval by the FPSC through December 31, 2007. Either Party may terminate this agreement effective as of January 1, 2008 by giving written notice of such termination to the other party by January 1, 2007. If no such notice of termination is provided by either party, then this agreement shall continue for successive one year terms unless and until it is terminated with one year's prior written notice by either Party to the other Party. Notice of termination pursuant to this paragraph shall be provided to:

For Cargill:

Utility Superintendent  
Cargill Fertilizer, Inc.  
8813 Highway 41 South  
Riverview, FL 33569-4865

For Tampa Electric:

Commercial & Industrial  
Customer Service Mgr  
Tampa Electric Company  
PO Box 111  
Tampa, FL 33601-0111

11. Cargill shall be entitled to purchase EOP and/or MOP energy pursuant to the terms of this agreement on or after January 1, 2004. From the date of Commission approval of this Settlement Agreement through December 31, 2003, the interim self-service wheeling authorized by the Commission in Order No. PSC-00-1596-TRF-EQ shall continue. Tampa Electric has no obligation to prepare and file further quarterly reports unless Cargill self-service wheels a total in excess of 800 MWH over the months of October, November and December 2003. If Cargill's self-service wheeling

during this period does exceed 800 MWH, Tampa Electric shall prepare a report that calculate what, if any, indemnity obligation Cargill may owe for the period October 2002 through December 2003. If that report, prepared based on the methodology used by Tampa Electric for the self-service wheeling program, shows that Cargill owes money, such money will be paid by Cargill to Tampa Electric and Tampa Electric shall refund that money to the ratepayers through the Fuel Cost Recovery Clause. As of January 1, 2004, Cargill self-service wheeling shall terminate and Tampa Electric shall request that the Federal Energy Regulatory Commission terminate the Cargill Transmission Service Agreement ("TSA"). Cargill shall not oppose such a request.

12. Upon approval of this Settlement Agreement by the FPSC in its entirety, Cargill agrees to pay to Tampa Electric the sum of \$27,000, which will cover the cost of any computer programming necessary to implement this Settlement Agreement and any indemnification obligation that Cargill may have pursuant to Order No. PSC-02-1451-PCO-EQ, except as provide in paragraph 11 above.
13. Upon approval of this Settlement Agreement in its entirety, Cargill agrees to dismiss the above-referenced proceeding on the terms set forth herein. The Parties waive no arguments or rights by virtue of entering into this Settlement Agreement. The Parties reserve the right to take any positions or make any argument on these matters if this Settlement Agreement is not accepted by the FPSC in its entirety. The Parties further reserve the right to take any position and make any arguments in any future dockets. This Settlement Agreement shall not be read as an admission by any Party in regard to the matters at issue in this docket and shall have no precedential significance in any other proceeding or in any other context. Except to the extent necessary to win approval of this Settlement agreement by the FPSC, the parties hereto shall not disclose the nature or content of settlement discussions or non-public information exchanged among the parties leading to this settlement. Cargill shall not request self-service wheeling in Tampa Electric's service territory to be effective prior to January 1, 2008.
14. The Parties shall support and defend this Settlement Agreement as to any challenge.
15. The Parties will present this Settlement Agreement to the FPSC for approval as quickly as possible. If the Settlement Agreement is not approved by the FPSC in its entirety through a final non-appealable order, the Parties agree that this matter shall be set for hearing as soon as practicable pursuant to the FPSC's schedule and that this Settlement Agreement shall cease to be of any force or effect.

DATED this 22<sup>ND</sup> day of October 2003.

TAMPA ELECTRIC COMPANY

By: Deirdre A. Brown  
Deirdre A. Brown  
Vice President of Regulatory Affairs

CARGILL FERTILIZER, INC.

By: Roger Fernandez  
Roger Fernandez  
Utilities Superintendent

**ATTACHMENT 1**

**Example 1 -- EOP**

Cargill sells 10 MWH EOP to Tampa Electric

Tampa Electric pays Cargill: 10 MWH x \$1/MWH =\$10.00

Tampa Electric at the same time sells 10 MWH EOP to Cargill:

Cargill pays Tampa Electric: 10 MWH x \$1/MWH = \$10.00

Plus \$2/MWH 10 MWH x \$2/MWH = \$20.00

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Total Cargill payment	\$30.00
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**Example 2 --MOP**

Cargill sells 10 MWH MOP to Tampa Electric

Tampa Electric pays Cargill: 10 MWH x \$1.00/MWH = \$10.00

Tampa Electric at the same time sells 10 MWH MOP to Cargill

Cargill pays Tampa Electric: 10 MWH x \$1/MWH = \$10.00

Plus \$6/MWH (for 1<sup>st</sup> 4,000 MWH portion)  
10 MWH x \$6/MWH = \$60.00

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Total Cargill payment	\$70.00
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**Example 3 – MOP**

Cargill sells 10 MWH MOP to Tampa Electric (above the 1<sup>st</sup> 4,000 MHW)

Tampa Electric pays Cargill: 10 MWH x \$1/MWH = \$10.00

Tampa Electric at the same time sells 10 MWH MOP to Cargill.

Cargill pays Tampa Electric: 10 MWH x \$1/MWH = \$10.00

Plus \$7/MWH (for 2<sup>nd</sup> 4,000 MWH portion)  
10 MWH x \$7/MWH = \$70.00

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Total Cargill payment	\$80.00
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