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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

890676-EE

In re: Petition of Tampa Electric Company for a Declaratory Statement Regarding Proposed Transfer of Service.

DOCKET NO. 890415-EI  
Filed: May 26, 1989

PETITION TO INTERVENE

Agrico Chemical Company, a division of Freeport-McMoRan Resource Partners, Limited Partnership ("Agrico"), through its undersigned attorney petitions to intervene as a party defendant and requests a fact finding hearing in the above-styled cause. Agrico's response to Tampa Electric Company's Complaint is filed contemporaneously herewith.

1. Agrico has a substantial interest in the proceeding for the following reasons:

a. The TECO Complaint seeks to control the electrical distribution system and energy owned by Agrico and used exclusively by Agrico within the boundaries

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AFA \_\_\_\_\_  
APP 10/11  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
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LEG \_\_\_\_\_  
LIN 6  
OPC 1  
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SEC 1  
WAS \_\_\_\_\_  
OTH \_\_\_\_\_

of its own property. In effect the Complaint asks the Florida Public Service Commission (FPSC) to assume jurisdiction over and to regulate the activities of Agrico as though it were a public utility. Agrico is not a public utility.

b. The substantial interests of Agrico are subject to determination because the Complaint seeks to restrict Agrico to purchase electric energy only from TECO to serve part of Agrico's facilities and to purchase electric energy only from FPC to serve integrated facilities located on other parts of Agrico's contiguous land holdings. The Complaint fails to consider Agrico's needs and operations. The demand to restrict Agrico's use of electric energy is related only to a protective line drawn by the

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two power companies by which the power companies agreed to restrict their services to certain territorial boundaries. The power companies agreed between themselves to refrain from dealing with persons outside of these boundaries. The line was, at best, arbitrary when drawn. It is anachronistic and irrelevant, now.

2. The intervenor is entitled to participate in the proceeding and have a hearing on the issues as a matter of constitutional and statutory right for the following reasons:

a. The Complaint seeks relief which would unconstitutionally deprive Agrico of valuable property rights in electric energy it proposes to purchase.

b. The Complaint seeks relief which would enable TECO to interfere with Agrico's constitutional right to freely contract for electric service.

c. The Complaint seeks to impose public utility status upon Agrico without its consent and without legal justification.

d. Absent intervention, Agrico will be denied of its due process right to be heard with respect to matters that affect its vital interests by specific application.

e. The Complaint seeks the imposition of unjust, unreasonable and unjustly discriminatory rates upon Agrico vis-a-vis its principal competitors and seeks to deny Agrico's constitutional right to equal protection of law.

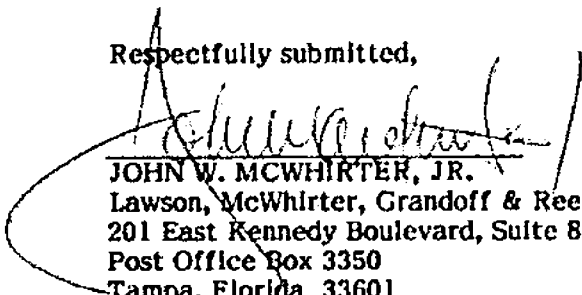
3. The TECO Complaint contains numerous disputed issues of material fact which are set out in greater particularity in Agrico's Response to TECO's Complaint filed contemporaneously herewith.

4. The ultimate facts alleged by Agrico are specified with particularity in Agrico's Answer to TECO's Complaint filed contemporaneously herewith.

5. Agrico respectfully requests that it be allowed to intervene in this cause, that it be granted a hearing and be entitled to present factual evidence and legal arguments in support of its opposition to Tampa Electric Company's Complaint.

DATED this 26th day of May, 1989.

Respectfully submitted,



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813/224-0866  
Attorney for Agrico Chemical Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition to Intervene has been served by U.S. mail on Lee L. Willis and James D. Beasley, Ausley, McMullen, McGehee, Carothers and Proctor, Post Office Box 391, Tallahassee, Florida 32301, attorneys for Tampa Electric Company, Mr. Russell D. Chapman, Manager, Regulatory Coordination, Tampa Electric Company, Post Office Box 111, Tampa, Florida 33601, Albert M. Stephens, Office of the General Counsel, Florida Power Corporation, Post Office Box 14042, St. Petersburg, Florida 33733, Cynthia S. Tunnicliff, Carlton, Fields, Ward, Emmanuel, Smith and Cutler, P.A., Post Office Drawer 190, Tallahassee, Florida 32302, and Sylvia H. Walbolt, Carlton, Fields, Ward, Emmanuel, Smith and Cutler, P.A., Post Office Box 3239, Tampa, Florida 33601, this 26th day of May, 1989.



John W. McWhirter, Jr.