

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Allied Universal Corporation and Chemical Formulators, Inc. against Tampa Electric Company for violation of Sections 366.03, 366.06(2), and 366.07, F.S., with respect to rates offered under commercial/industrial service rider tariff; petition to examine and inspect confidential information; and request for expedited relief.

DOCKET NO. 000061-EI
ORDER NO. PSC-03-0532-CFO-EI
ISSUED: April 22, 2003

ORDER ON CONFIDENTIALITY OF DOCUMENTS IN EVIDENTIARY RECORD AND
OTHER DOCUMENTS SUBMITTED DURING PROCEEDING

On April 24, 2001, a settlement agreement was approved in Docket No. 000061-EI. See Order No. PSC-01-1003-AS-EI. In that Order, the Commission made findings that certain actions of Tampa Electric Company (TECO) were prudent. Although there was no hearing, the Order approved creation of an evidentiary record to support the prudence findings. The evidentiary record contains all prefiled testimony and exhibits, all depositions and exhibits, and TECO's responses to all discovery requests made in the proceeding.

Many of the documents in the evidentiary record, and many other documents filed during the proceeding, were granted confidential classification. The parties now want to have the confidential documents returned or have confidentiality extended 18 months. This request was made by TECO in its Request for Return of Confidential Documents, or in the Alternative, for an Extension of the Confidential Protection Afforded Such Documents by the Commission, filed on April 15, 2002. Allied Universal Service Corporation and Chemical Formulators, Inc. joined in the request on April 18, 2002. The intervenors, Odyssey Manufacturing Company, and Sentry Industries, Inc., joined in TECO's Request on April 16, 2002.

The evidentiary record is kept for five years, so documents in the record cannot be returned, but documents that are not in the evidentiary record can be returned. Attachment A contains a list

DOCUMENT NUMBER-DATE

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of documents that were previously deemed confidential, but are not part of the evidentiary record, and can be returned. Each document in Attachment A shall be returned to the party that submitted it.

In support of continued confidentiality for documents that cannot be returned (those in the evidentiary record) TECO states it has reviewed all the documents and has determined that they require continued confidential treatment because the information is sensitive and because the contracts at issue are still in effect. TECO incorporates by reference the justifications for confidentiality of each document that it or the other parties originally provided. These justifications are provided in the following Orders:

PSC-00-1886-CFO-EI issued October 16, 2000
PSC-00-1887-CFO-EI issued October 16, 2000
PSC-00-1888-CFO-EI issued October 16, 2000
PSC-00-1889-CFO-EI issued October 16, 2000
PSC-00-1890-CFO-EI issued October 17, 2000
PSC-00-2537-CFO-EI issued December 18, 2000
PSC-01-0420-CFO-EI issued February 26, 2001
PSC-01-1442-CFO-EI issued July 5, 2001
PSC-01-2251-CFO-EI issued November 16, 2001
PSC-01-2252-CFO-EI issued November 16, 2001
PSC-01-2253-CFO-EI issued November 16, 2001

Section 366.093, Florida Statutes, defines "proprietary confidential business information" as:

[I]nformation, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Pursuant to Section 366.093(4), Florida Statutes, confidential protection may only be granted for a period of 18 months unless the

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entity requesting confidential classification shows good cause why the period should be extended.

I find that the documents listed in Attachment B warrant continued confidential treatment for the reasons provided in the listed Orders. These documents are all in the evidentiary record.

Two documents require special consideration: Documents 02395-00 and 03204-00. These documents are the same, containing the prefiled direct testimony of Robert M. Namoff and exhibits RMN 1 through RMN 13. The parties to the Settlement Agreement, TECO and Allied, agreed that this testimony is not needed in the evidentiary record and can be returned to Allied.

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the documents listed in Attachment A to this Order shall be returned to the parties that filed them and that the documents listed in Attachment B to this Order shall be granted confidential classification for another 18 months. It is further


ORDERED that Document Nos. 02395-00 and 03204-00 shall be returned to Allied Universal Corporation and Chemical Formulators Inc. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, confidentiality granted to the documents in Attachment B to this Order shall expire eighteen (18) months from the date of the issuance of this Order in the absence of a renewed request for confidentiality. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 22nd Day of April, 2003.

 for Commissioner Braulio L. Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for

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reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A
Confidential Documents of Docket No. 000061-EI to be Returned

It is requested that the following confidential documents be returned. These documents include previously filed versions of documents listed above and other documents not included the evidentiary record.

Tampa Electric's Original Document Filing (Confidentiality Addressed in Order PSC-00-1886-CFO-EI)

Document No. 03140-00 Documentation relevant to CISR negotiations between TECO with Odyssey (Bates-stamp Nos. 7-O through 1545-O)
Document No. 03141-00 Documentation relevant to CISR negotiations between TECO with Allied/CFI (Bates-stamp Nos.1547-A through 1910-A)
Document No. 03142-00 Side-by-side reconciliation of rates
Document No. 03143-00 Timeline comparison reflecting relative amounts of time TECO negotiated with Odyssey and Allied/CFI
Document No. 08254-00 Documents Bates-stamped 1606A, 1606a-A, 1934, and 1935-O through 2000-O.
Document No. 09709-00 Documents regarding CISR report for Quarter Ended 3/31/00

Allied's Response to Tampa Electric's Discovery Requests

Document No. 01386-01 Allied's Response to TECO's 1st request for POD Nos. 1-12 & 1st set of interrogatories nos. 1-24
Document No. 02255-01 Allied's Response to TECO's 1st request for POD Nos. 1-12 & 1st set of interrogatories nos. 1-24
Document No. 01388-01 Allied's response to TECO's 1st request for PODs (additional Bates Stamp Nos.)
Document No. 01472-01 Allied's response to TECO's 1st request for PODs (additional Bates Stamp Nos.)

Odyssey Request for Confidentiality

Document No. 11705-00 Exhibit A - Sentry Company Profile

Contract Service Agreement under CISR between TEC and Allied/CFI

Document No. 03551-01 Faxed version of DN 03681-01 (CSA between TEC and Allied/CFI)

Deposition Transcript

Document No. 16399-00 Deposition transcript of Stephen Sidelko (cross-reference DN 05693-01)
Document No. 16400-00 Deposition transcript of Patrick Allman (cross-reference DN 05694-01)
Document No. 01644-01 Deposition transcript of James W. Palmer Vol 1 (cross-reference DN 05482-01)
Document No. 01645-01 Deposition transcript of James W. Palmer Vol 2 (cross-reference DN 05482-01)
Document No. 01696-01 Deposition transcript of Peter DeAngelis Vol 1 (cross-reference DN 05483-01)

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Document No. 01697-01 Deposition transcript of Peter DeAngelis Vol 2 (cross-reference DN 05483-01)
Document No. 01836-01 Deposition transcript of David Sweat Pages 1-38 (cross-reference DN 05472-01)
Document No. 01837-01 Deposition transcript of Victoria Westra Vol 1 (cross-reference DN 05473-01)
Document No. 02015-01 Deposition transcript of David Sweat Pages 39 -130 with exhibit (cross-reference DN 05472-01)
Document No. 02016-01 Deposition transcript of Charles F. Phillips, Jr. Pages 1 - 66 (See DN 05484-01)
Document No. 02090-01 Deposition transcript of Lawrence Rodriguez Vol 1 (See DN 05471-01)
Document No. 02091-01 Deposition transcript of Robert M. Namoff Vol 1 (See DN 05481-01 and DN 05761-01)
Document No. 02092-01 Deposition transcript of Robert M. Namoff Vol 2 (See DN 05481-01)
Document No. 02093-01 Deposition transcript of Robert M. Namoff pages 1 - 17 (See DN 05481-01)
Document No. 02137-01 Deposition transcript of William Ashburn vol 1 (See DN 05470-01 and DN 02164-01)
Document No. 02164-01 Late-filed deposition Exhibit No. 7 & 8 of William R. Ashburn (cross-reference DN 05470-01)
Document No. 02138-01 Deposition transcript of Lawrence Rodriguez Vol 2 (See DN 05471-01)
Document No. 02196-01 Deposition transcript of Pamela Winters Pages 1 - 72 (cross-reference DN 05820-01)
Document No. 02197-01 Deposition transcript of Pamela Winters Vol 2 (cross-reference DN 05820-01)
Document No. 02207-01 Deposition transcript of William Ashburn Vol 2 (see DN 05470-01)
Document No. 02208-01 Deposition transcript of William Ashburn Vol 3 (see DN 05470-01)

Rebuttal Testimony

Document No. 00926-01 Rebuttal testimony Charles F. Phillips, Jr. with Exhibits CFP-2 and CFP-3 (see DN 07051-01)
Document No. 02257-01 Supplemental Exhibit RMN-20 to rebuttal testimony DN 00924-01)
Document No. 00924-01 Robert M. Namoff rebuttal testimony with Exhibit RMN-16 (See DNs 0976-01, 02257-01, and 0753-01)
Document No. 00976-01 Exhibits RMN-17, RMN-18, and RMN-19 (See DNs 00924-01 and 07053-01)
Document No. 00928-01 James W. Palmer rebuttal testimony (cross-reference DN 07055-01)

Supplemental Testimony

Document No. 12556-00 William R. Ashburn supplemental testimony and Exhibit WRA-2

Direct Testimony

Document No. 07871-00 Direct testimony of William R. Ashburn with exhibits WRA-1 and WRA-2 (Order PSC-00-1887-CFO-EI)
Document No. 07872-00 Direct testimony of Lawrence W. Rodriguez (Order PSC-00-1888-CFO-EI)
Document No. 07874-00 Direct testimony of C. David Sweat with exhibit CDS-1 (Order PSC-00-1890-CFO-EI)
Document No. 07876-00 Direct testimony of Victoria L. Westra with exhibit VLW-1 (Order PSC-00-1889-CFO-EI)
Document No. 07883-00 Direct testimony of Stephen W. Sidelko with exhibit SWS-1 (Order PSC-00-1896-CFO-EI)

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Miscellaneous Documents

Document No. 08025-00 Prehearing Statement of Tampa Electric containing confidential material
Document No. 12063-00 Exhibits A and B to Allied's response in opposition to Odyssey's request for confidential classification
Document No. 13597-00 Allied's response in opposition to Odyssey's request for confidentiality
Document No. 02567-01 Attachments A, B, and C to Odyssey's motion for summary of final order

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ATTACHMENT B

Confidential Documents Included in the Evidentiary Record of Docket 000061-EI

The following confidential documents include testimony, deposition transcript, and Tampa Electric Company's discovery responses in the evidentiary record of Docket No. 000061-EI. Multiple document numbers exist for certain deposition transcript documents as the same documents were filed under separate confidentiality requests by more than one company. In this case, all versions remain in the record. When multiple document numbers resulted from filing revised versions to conform with orders granting confidentiality for specific portions, only the final revised version should remain in the record and all previous versions are requested to be returned.

Tampa Electric Company Discovery Responses (Confidentiality Addressed in Order PSE-01-1442-CFO-EI and PSC-00-1901-PCO-EI)

Document No. 10648-00 TEC's responses to Allied/CFI's request for POD Nos. 1-5 and 9-8 and revised answers to Allied/CFI's 1st Set Intr. Nos. 4, 5, 10, and 11.
Document No. 13580-00 TEC's responses to Allied/CFI's request for POD Nos. 6, 7, and 8.
Document No. 14033-00 TEC's responses to Allied/CFI's 2nd Set of Interrogatories Nos. 12 - 20.
Document No. 15002-00 TEC's responses to Staff's 1st Set of Interrogatories Nos. 1 - 7.
Document No. 00217-01 TEC's remaining responses to Allied/CFI's request for production of documents, Nos. 6 and 7.
Document No. 00628-01 TEC's responses to Staff's 2nd Set of Interrogatories Nos. 9 - 10.

Contract Service Agreement under CISR between TEC and Allied/CFI (Confidentiality Addressed in Order PSE-01-1442-CFO-EI)

Document No. 03681-01 Original version of CSA between Tampa Electric and Allied Universal Corp. with Exhibit B

Testimony (Confidentiality addressed in Order shown for each document)

Document No. 08670-00 Direct testimony of Stephen W. Sideiko with exhibit SWS-1 (Order PSC-00-1896-CFO-EI)
Document No. 14337-00 Revised prepared direct testimony of William R. Ashburn with exhibits (revised confidential portions per Order PSC-00-1887-CFO-EI)
Document No. 14338-00 Revised prepared direct testimony of Lawrence W. Rodriguez (revised confidential portions per Order PSC-00-1888-CFO-EI)
Document No. 14339-00 Revised prepared direct testimony of C. David Sweat with exhibit CDS-1 (revised confidential portions per Order PSC-00-1890-CFO-EI)
Document No. 14340-00 Revised prepared direct testimony of Victoria L. Westra with exhibit VLW-1 (revised confidential portions per Order PSC-00-1889-CFO-EI)

Rebuttal Testimony (Confidentiality Addressed in Order PSC-01-2251-CFO-EI)

Document No. 07051-01 Rebuttal testimony of Charles F. Phillips, Jr. with Exhibits CFP-2 and CFP-3
Document No. 07053-01 Rebuttal testimony of Robert M. Namoff and Exhibits RMN-15 through RMN-19
Document No. 07055-01 Rebuttal testimony of James W. Palmer
Document No. 00930-01 Rebuttal testimony of Peter DeAngelis with Exhibit PD-1

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Supplemental Testimony (Confidentiality Addressed in Order PSC-01-0232-CFO-EI)

Document No. 12557-00 C. David Sweat supplemental testimony with Exhibit CDS-2
Document No. 01497-01 Revised supplemental testimony of William R. Ashburn

Deposition Transcript (Confidentiality Addressed in Orders PSC-01-2253-CFO-EI and PSC-01-2252-CFO-EI)

Document No. 05481-01 Deposition transcript of Robert M. Namoff
Document No. 05482-01 Deposition transcript of James W. Palmer
Document No. 05483-01 Deposition transcript of Peter DeAngelis
Document No. 05484-01 Deposition transcript of Charles F. Phillips, Jr.
Document No. 02253-01 Late-filed deposition Exhibit No. 2 to deposition of Charles F. Phillips, Jr.
Document No. 05693-01 Deposition transcript of Stephen Sidelko (TEC-requested confidential portions)
Document No. 05694-01 Deposition transcript of Patrick Allman (TEC-requested confidential portions)
Document No. 05820-01 Deposition transcript of Pamela Winters (TEC-requested confidential portions)
Document No. 05761-01 Deposition transcript of Robert Namoff (TEC-requested confidential portions)
Document No. 05470-01 Deposition transcript of William Ashburn Vols. 1, 2, & 3 and Late Filed Exhibit Nos. 7 & 8
Document No. 05471-01 Deposition transcript of Lawrence Rodriguez Vols. 1 and 2
Document No. 05472-01 Deposition transcript of David Sweat Vol. 1
Document No. 05473-01 Deposition transcript of Victoria Westra Vols. 1 and 2