

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to vacate Order No. PSC-01-1003-AS-EI approving, as modified and clarified, the settlement agreement between Allied Universal Corporation and Chemical Formulators, Inc. and Tampa Electric Company and request for additional relief, by Allied Universal Corporation and Chemical Formulators, Inc.

DOCKET NO. 040086-EI  
ORDER NO. PSC-04-0248-PCO-EI  
ISSUED: March 5, 2004

ORDER GRANTING MOTION FOR EXTENSION OF TIME

On January 30, 2004, Allied Universal Corporation and Chemical Formulators, Inc. (Allied) filed a petition to vacate Commission Order No. PSC-01-1003-AS-EI, which approved a settlement agreement between Allied and Tampa Electric Company (TECO). The named parties to the petition – TECO and Odyssey Manufacturing Company (Odyssey) – both timely filed motions to dismiss the petition on February 19, 2004, pursuant to Uniform Rule 28-106.204, Florida Administrative Code. On February 20, 2004, Allied filed a motion for extension of time to respond to the two motions to dismiss by March 12, 2004, which was granted by Order No. PSC- 04-0232-PCO-EI on March 2, 2004.

Odyssey also filed a Motion for Attorney's Fees and Sanctions on February 23, 2004, and on February 24, 2004, Allied filed a Motion for Stay and For Extension of Time to File Response in Opposition to Odyssey Manufacturing Company's Motion for Attorney's Fee and Sanctions. In its motion, Allied asked to respond to the motion for sanctions on March 12, 2004, the same time it is to respond to the motions to dismiss. Allied asserted that it would be most efficient to address Odyssey's motion at the same time it addressed the motions to dismiss, because the motion for sanctions is presumably predicated upon the arguments in the motion to dismiss. Allied also asserts that Odyssey will not be harmed by the extension of time.

Allied represented in its motion that Odyssey objects to the extension of time and TECO takes no position on the request. Odyssey filed a written objection to Allied's motion on March 2, 2004. Odyssey states that it first served its motion for sanctions on Allied, pursuant to Section 57.105(4), Florida Statutes, on January 30, 2004. When Allied did not respond to the motion, Odyssey filed it with the Commission. Thus, according to Odyssey's calculations, if Allied's motion for extension of time is granted it will have had 42 days to respond, which Odyssey asserts is excessive. Odyssey also asserts that whether or not a party would be harmed if the extension were granted is not an independent basis for granting the extension.

I will grant Allied's motion for an extension of time to respond to Odyssey's motion for attorneys fees and sanctions until March 12, 2004. I believe that such an extension is reasonable

DOCUMENT NUMBER-DATE

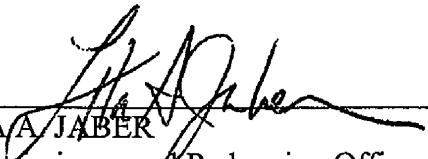
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EPSC-PCO-04-0248-PCO-EI

ORDER NO. PSC-04-0248-PCO-EI  
DOCKET NO. 040086-EI  
PAGE 2

in light of the fact that Allied has been granted that amount of time to respond to the motions to dismiss, and because the motions are related and can be efficiently addressed at the same time. No schedule has yet been established in the case, and no party's due process will be denied. Whether or not harm is an independent basis to grant an extension of time to respond to a motion under Rule 28-106.204, it is a fundamental balancing consideration applied in many aspects of Commission proceedings. Once again, I urge the parties to engage in informal discussions to resolve this case.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 5th day of  
March, 2004.

  
LILA A. JABER  
Commissioner and Prehearing Officer

( S E A L )

MCB

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; or (2) 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 reconsideration shall be filed with the Director,

ORDER NO. PSC-04-0248-PCO-EI  
DOCKET NO. 040086-EI  
PAGE 3

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.