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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, Florida Statutes, 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 RECORDS AND REPORTING

ODYSSEY MANUFACTURING COMPANY'S MOTION FOR AUTHORIZATION TO DISCLOSE CONFIDENTIAL INFORMATION PURSUANT TO PROTECTIVE AGREEMENT

ODYSSEY MANUFACTURING COMPANY ("Odyssey"), by and through undersigned counsel, and pursuant to Rule 28-106.204, Florida Administrative Code, moves for authorization to disclose confidential information pursuant to the Protective Agreement to Co-counsel for Odyssey, John L. Wharton and Joseph P. Patton, and requests expeditious disposition of this Motion, and in support thereof would state and allege as follows:

- 1. Order No. PSC-1171-CFO-EI, issued June 27, 2000 (Discovery Order"), directed Allied Universal Corporation (Allied") and its affiliate, Chemical Formulators, Inc. ("CFI"), hereinafter referred to collectively as "Allied/CFI", Tampa Electric Company ("TECO"), and Odyssey to enter into a non-disclosure agreement that prohibits any party from revealing confidential information exchanged in this proceeding to anyone other than representatives of the companies that sign the non-disclosure agreement. The Discovery Order summarizes the disputed issues between

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PPSC BUREAU OF RECORDS

ROSE, SUNDBSTROM & BENTLEY, LLP
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the parties concerning proposed terms for the non-disclosure agreement, at pages 10-14 of the Discovery Order.

2. Order No. PSC-00-1530-PCO-EI, issued August 23, 2000 (“Order Denying Motions for Reconsideration”), approved a stipulation between Allied/CFI, TECO and Odyssey reached at the August 1, 2000 Agenda Conference, concerning the representatives of the parties who are authorized to review confidential information disclosed pursuant to the Protective Agreement.

3. Odyssey is requesting authorization for Co-counsel for Odyssey in this matter, John L. Wharton and Joseph P. Patton of the Tallahassee law firm of Rose, Sundstrom & Bentley, LLP, to review confidential information disclosed pursuant to the Protective Agreement or otherwise determine to be confidential in this case. Mr. Wharton and Mr. Patton are members of good standing in the Florida Bar, who are known to the Commission, and who have been providing advice and counsel to Odyssey in this proceeding since January 26, 2001. **The undersigned entered a Notice of Appearance in this case on January 29, 2001.** Mr. Wharton and Mr. Patton have reviewed the Protective Agreement, and are willing to execute the Non-disclosure Agreement, which other counsel to this case have been required to execute, and are willing to abide by its terms.

4. In a similar motion of Allied/CFI on October 13, 2000, Allied/CFI stated “(n)either TECO nor Odyssey is limited with respect to the number or qualifications of their attorneys who are authorized to review confidential information ...”. Allied/CFI apparently recognized, by this statement and by the Motion for Authorization in which the statement was made, that it is necessary for attorneys with substantial responsibility in preparation of this case to be authorized to review confidential information. Odyssey would agree with this sentiment, and represents that it will be prejudiced in its preparation for trial if this Motion for Authorization is not expeditiously granted.

5. This matter is a complex matter, and a case in which many issues and activities have arisen at the eleventh hour. The February 12, 2001 discovery cut-off has been extended which compounds the number of issues which counsel for Odyssey must address in the remaining few days before trial. These include depositions which are scheduled to continue even on this date.

6. The granting of this Motion will not expose Allied/CFI to additional exposure or damage, and will substantially assist Odyssey in orderly preparation for this case.

7. There is no reason why the confidential information in this case should not be available to the attorneys for the parties.

8. The undersigned has attempted to diligently assist Odyssey in its preparation for this case, but those efforts have been severely limited by the undersigned's lack of access to the confidential information. Odyssey and its counsel understand that the confidential projections provided to certain information in this case is a very serious matter and have therefore strictly adhered to the spirit and letter of that confidentiality. Accordingly, Odyssey finds itself in the position of one co-counsel (Wayne L. Schiefelbein) having access to a voluminous amount of information in this case to which another co-counsel (the undersigned) does not have access. This prevents the orderly preparation for trial and prejudices Odyssey's ability to present its case.

9. Pursuant to Rule 28-106.204(3), counsel for Odyssey have conferred with counsel for TECO, who does not oppose this motion. Counsel for Allied/CFI represent that they oppose this Motion.

WHEREFORE, Odyssey respectfully requests the issuance of an order authorizing the disclosure of confidential information, as requested herein, to John L. Wharton and Joseph P. Patton, Co-counsel for Odyssey. Odyssey requests that this Motion be expeditiously ruled upon by the

Prehearing Officer. Any delay in ruling on this Motion could seriously prejudice Odyssey's ability to prepare for the hearing.

Dated this 14th day of February, 2001.

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And



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Attorneys for
ODYSSEY MANUFACTURING COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion For Authorization to Disclose Confidential Information Pursuant to Protective Agreement has been furnished by Facsimile and U.S. Mail to the following on this 14th day of February, 2001:

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