

AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

February 23, 2004

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Allied Universal Corporation and Chemical Formulators, Inc.'s 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; FPSC Docket No. 040086-EI

Dear Ms. Bayo:

Enclosed for filing in the original and fifteen (15) copies of a revised page 13 to the Motion to Dismiss and Answer of Tampa Electric Company. We would appreciate your circulating these revised pages to recipients at the Commission of the company's initial Motion to Dismiss and Answer filed February 19, 2004. This revised page 13 corrects typographical errors appearing in the penultimate sentence in paragraph 17 of the earlier filing.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,


James D. Beasley

JDB/pp
Enclosure

cc: All Parties of Record (w/enc.)

DOCUMENT NUMBER-DATE
02640 FEB 23 3
FPSC-COMMISSION CLERK

the benefits projected as the result of attracting the incremental load represented by Odyssey's new facility were all taken into account by Tampa Electric. As noted in the above-mentioned excerpts from the Commission's order approving the settlement, all of this information was contained in the data request responses provided by Tampa Electric and included in the record to substantiate the prudence of Tampa Electric's actions. Allied has alleged no facts that would support a finding that Tampa Electric's extension of a CSA to Odyssey was imprudent or that the Commission committed an error of fact or law in concluding that Tampa Electric's CSA with Odyssey was prudent and in the best interests of ratepayers. In any event, the opportunity to seek rehearing of Order No. PSC-01-1003-AS-EI has long since expired and the doctrine of administrative finality demands that Allied's attempt to re-litigate matters that it expressly agreed to resolve through settlement be firmly and swiftly rebuffed.

18. Allied's Petition is precisely the kind of frivolous and needlessly litigious pleading that the Settlement Agreement explicitly bars. Now that Allied has extracted the full benefit of the Settlement, it is asking the Commission to declare the Settlement Agreement unenforceable, thereby depriving Tampa Electric of all of the benefits that Tampa Electric bargained for. Allied's extraordinary request for relief is based on unsubstantiated allegations of misconduct directed at a party who opposed the Settlement Agreement and whose misconduct, even if substantiated, would be irrelevant to the settlement reached between Allied and Tampa Electric. Both as a matter of law and as a matter of basic fairness, Allied's Petition should be summarily dismissed.