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February 27, 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

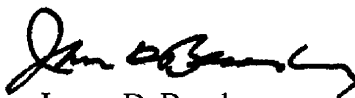
Dear Ms. Bayo:

Enclosed for filing in the original and fifteen (15) copies of Response of Tampa Electric Company to the Motion of Allied Universal Corporation and Chemical Formulators, Inc. for Extension of Time to File Response in Opposition to Motion to Dismiss Filed by Odyssey Manufacturing Company and Tampa Electric Company.

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

02915 FEB 27 3

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Allied Universal Corporation and)	
Chemical Formulators, Inc.'s Petition to)	Docket No. 040086-EI
Vacate Order No. PSC-01-1003-AS-EI)	
Approving, As Modified and Clarified, the)	Filed: February 27, 2004
Settlement Agreement Between Allied)	
Universal Corporation and Chemical)	
Formulators, Inc. and Tampa Electric)	
Company and Request for Additional)	
Relief)	
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**Response of Tampa Electric Company to the Motion of
Allied Universal Corporation and Chemical
Formulators, Inc. for Extension of Time to File
Response in Opposition to Motions to Dismiss
Filed by Odyssey Manufacturing Company and
Tampa Electric Company**

Pursuant to Rule 28-106.204, F.A.C., Tampa Electric Company ("Tampa Electric") hereby files its response in opposition to Allied Universal Corporation and Chemical Formulators, Inc.'s ("Allied") Motion For Extension Of Time To File Response In Opposition To Motions To Dismiss Filed By Odyssey Manufacturing Company and Tampa Electric Company, filed with the Commission on February 20, 2004 (the "Motion"). As noted in its February 19, 2004 Motion to Dismiss, Tampa Electric respectfully submits that Allied's Petition in this docket is patently frivolous and represents a direct and blatant violation of the Settlement Agreement adopted by the Commission in Order No. PSC-01-1003-AS-EI. Allied has offered no showing of good cause that would justify the requested extension. Therefore, granting the extension requested by Allied will only serve to encourage such frivolous filings and undermine the

Commission's expressed support for settlements as a viable alternative to administrative litigation. In support whereof, Tampa Electric says:

1. Pursuant to Rule 28-106.204 (5), FAC, a motion for an extension of time must "state good cause for the request". Tampa Electric respectfully submits that Allied has failed to meet this burden. Although Tampa Electric served its Motion to Dismiss on Allied by mail on February 19, 2004, Tampa Electric also provided Allied's Tallahassee counsel with a copy of Tampa Electric's motion by hand delivery on that same date. The practical effect of this hand delivery was to give Allied a total of 12 days with in which to respond to Tampa Electric's motion. According to Allied's Motion, Odyssey offered to extend the same courtesy, giving Allied an additional 5 days to respond to both pending motions to dismiss.
2. In support of its Motion, Allied refers to the Rules of Appellate Procedure, which it acknowledges do not apply to its immediate request for relief, and make the irrelevant observation that an appellee is given twenty days plus five days to respond to an initial brief of up to fifty pages. Allied concludes that since Odyssey's motion to dismiss and Tampa Electric's motion to dismiss amount to 50 pages, Allied is entitled to an additional ten days to file its response to the pending motions to dismiss. Although one would not have thought it possible, the logic underlying Allied's instant motion is even more obtuse and flawed than the logic underlying Allied's Petition in this docket.

3. Essentially, Allied's effort to satisfy the required showing of "good cause" for its request amounts to an unsupported assertion that it is unreasonably burdensome to expect Allied to respond to the pending motions to dismiss within the ten days that Odyssey and Tampa Electric offered. However, it is difficult, if not impossible to understand the precise nature of the claimed burden. Furthermore, even if some modicum of burden exists, it is difficult to understand why Allied should be entitled to relief from any such burden.
4. First, it must be understood that Allied comes to this docket with unclean hands. Its underlying Petition constitutes a clear and direct violation of the Settlement Agreement adopted by the Commission in Order No. PSC-01-1003-AS-EI. This fact alone should disqualify Allied as a candidate for procedural leniency. In any event, the burden of responding to legitimate motions to dismiss is a burden that Allied voluntarily assumed when it resolved to file its Petition. The fact that it is now confronted with the need to meet the burden that it created does not intuitively lead one to the conclusion that Allied is now entitled to, or deserving of relief from that burden.
5. Furthermore, Allied's assertion of unreasonable burden is suspect. Although Allied accurately asserts that the combined length of the pending Motions to Dismiss is approximately 50 pages, these pleadings contain arguments and facts that Allied could have and should have reasonably anticipated. Therefore, it is difficult, if not impossible, to understand why Allied cannot provide an adequate response by March 2, 2004. The fact that Allied may

have other matters that occupy its time, making a timely response to the pending Motions to Dismiss inconvenient, is not tantamount to a showing of "good cause" that would justify the requested extension. Allied has already seriously inconvenienced the Commission and the parties by requiring that valuable resources that could better be expended on legitimate business must, instead, be used to address its frivolous petition. In this sense, Allied has unnecessarily burdened others and has no reasonable standing to complain about unsubstantiated burdens that it has created for itself.

6. Tampa Electric respectfully suggests that the Commission should not encourage Allied's blatant violation of the Settlement Agreement by granting a dispensation from the otherwise applicable rules in order to accommodate Allied's schedule. To do so would only embolden others to make similarly frivolous filings in contravention of Commission-approved settlement agreements. Such a precedent would be counterproductive to the Commission's consistent and unwavering support of settlements as an alternative to administrative litigation.

WHEREFORE, Tampa Electric respectfully requests that Allied's motion be denied and that Allied be required to fully respond to Tampa Electric's Motion to Dismiss on or before March 2, 2004.


DATED this 27th day of February, 2004.

Respectfully Submitted,

HARRY W. LONG JR.
Assistant General Counsel – Regulatory
Tampa Electric Company
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And

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By:  _____

ATTORNEYS FOR TAMPA ELECTRIC
COMPANY


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Response, filed on behalf of Tampa Electric Company, has been furnished by hand delivery(*) or U. S. Mail on this 27th day of February 2004 to the following:

Ms. Martha Carter Brown*
Ms. Marlene Stern
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0860

Mr. Kenneth A. Hoffman*
Mr. J. Stephen Menton
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ATTORNEY