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Speaker



Stephen C. Burgess
Deputy Public Counsel

April 23, 2004

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 040086-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Motion for Public Service Commission to Examine CSA Between TECO and Odyssey for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen C. Burgess".

Stephen C. Burgess
Deputy Public Counsel

SCB/dsb

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Allied Universal Corporation and)	
Chemical Formulators, Inc.'s Petition to)	
Vacate Order No. PSC-01-1003-AS-EI)	Docket No. 040086-EI
Approving, as Modified and Clarified, the)	
Settlement Agreement between Allied)	Filed: April 23, 2004
Universal Corporation and Chemical)	
Formulators, Inc. and Tampa Electric)	
Company and Request for Additional)	
Relief.)	
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**MOTION FOR PUBLIC SERVICE COMMISSION
TO EXAMINE THE CONTRACT SERVICE AGREEMENT BETWEEN TECO
AND ODYSSEY**

The Citizens of the State of Florida, through their attorney, the Public Counsel, pursuant to Rule 28-106.204, Florida Administrative Code, hereby file this Motion for the Public Service Commission to examine the Contract Service Agreement (CSA) between Tampa Electric Company (TECO) and Odyssey Manufacturing Company (Odyssey) to determine whether it comports with the Order No. PSC-98-1081-FOF-EI (CISR order).

1. On January 30, 2004, Allied Universal Corporation (Allied) filed a petition to vacate Order No. PSC-01-1003-AS-EI, which had approved a settlement agreement between Allied and TECO. Both TECO and Odyssey have moved to dismiss Allied's petition.

2. On March 1, 2004, the Citizens filed a Notice of Intervention, pursuant to Section 350.0611, Florida Statutes. In the Notice the Citizens cited the following as the disputed issues of material fact:

The disputed issue of material fact is whether the Contract Service Agreement between TECO and Odyssey Manufacturing Company

comports with the requirements of Order No. PSC-98-1081-FOF-EI, and whether that agreement serves the interests of TECO's aggregate customer base.

3. On March 12, 2004, Allied filed an excerpt of the deposition of Patrick Henry Allman taken in Dade County Circuit Court Case No. 01-27699-CA-25. In that excerpt, Mr. Allman stated that TECO's motive in agreeing to its contract with Odyssey was simply to create a prototype contract, in order that a subsequent contract "wouldn't receive near the same level of scrutiny." This admission by itself should be a red flag signaling the need to "scrutinize" TECO's process for contracting CISR agreements.

4. In a subsequent deposition, Mr. Allman described the pricing method of the CSA between TECO and Odyssey. From Mr. Allman's description it appears that either the actual rate is in violation of the filed tariff, or the tariff is in violation of the CISR order. In either case the actual rate charged under the CSA appears to be in direct conflict with the spirit and the letter of the CISR order. It appears that TECO is not even collecting all of the incremental costs necessary to service the contract, much less any contribution to the fixed costs.

5. As the regulatory authority, the Commission should satisfy itself that the requirements of its CISR order are being followed. The Commission should scrutinize the circumstances surrounding TECO's agreement to the CSA, as well as the actual rate effect of the CSA itself.

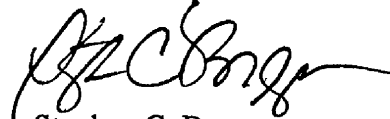
6. OPC believes the Commission should examine the CSA in question, regardless of whether or not the Commission decides to vacate Order No. PSC-01-1003-AS-EI. At this point, OPC has no particular interest in which procedural vehicle the

Commission chooses to accomplish this examination of the CSA. The Citizens are neutral on whether an examination of the CSA takes place by the Commission's own motion or under the Petition filed by Allied. Nevertheless, because the subject of the CSA is being considered under the instant docket, the Citizens request that the examination of the CSA be undertaken before the Commission considers closing out this docket. The important issue is that CSA be examined to assure its compliance with the CISR order.

WHEREFORE, the Citizens of the State of Florida, respectfully move the Commission to undertake an examination of the CSA agreement to determine whether it comports with the provisions of the CISR Order.

Respectfully submitted,

HAROLD MCLEAN
Public Counsel



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Attorneys for the Citizens of the
State of Florida

CERTIFICATE OF SERVICE
DOCKET NO 040086-EI


I HEREBY CERTIFY that a true and exact copy of the above and foregoing MOTION FOR PUBLIC SERVICE COMMISSION TO SCRUTINIZE CSA BETWEEN TECO AND ODYSSEY has been furnished by hand-delivery* or U.S. Mail to the following parties of record this 23rd day of April, 2004.

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