

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-05-0342-CFO-EI  
ISSUED: March 29, 2005

ORDER GRANTING CONFIDENTIAL CLASSIFICATION  
FOR DOCUMENT NOS. 04796-04 AND 09129-04

Odyssey Manufacturing Company (Odyssey) filed the documents referenced above as part of its objection to Allied Universal Corporation and Chemical Formulators, Inc.'s (Allied) petition to vacate the Commission's Order No. PSC-01-1003-AS-EI, which approved a settlement of an earlier complaint Allied filed against Tampa Electric Company (TECO) over its Commercial Industrial Service Rider (CISR) contract for electric service with Odyssey.<sup>1</sup> Odyssey has requested that certain information contained in the documents be treated as confidential pursuant to Rule 25-22.006, Florida Administrative Code, which implements section 366.093, Florida Statutes. The information contained in the documents for which Odyssey has requested confidential classification relates to rates charged for electric service, negotiations, and other contractual information contained in the TECO/Odyssey CISR contract and in a TECO/Allied CISR contract that was executed as part of the settlement in the earlier case, information related to the operation, finances, capacity and sales of Odyssey's bleach plant, and information related to Odyssey's customers. The Commission first granted confidential classification for the contract information in the earlier case. For the reasons explained below I grant Odyssey's request for confidential classification for the referenced documents in this case.

DN 04796-04

This request for confidential classification relates to portions of the December 18, 2003, deposition of Stephen Sidelko and a January 23, 2004, errata sheet to that deposition, taken as part of Allied's complaint against Odyssey in Miami-Dade Circuit Court.<sup>2</sup> Odyssey asserts that

<sup>1</sup> Docket No. 000061-EI, 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, F.S., with respect to rates offered under commercial industrial service rider tariff; petition to examine and inspect confidential information; and request for expedited relief.

<sup>2</sup> Allied Universal Corporation, et. al. v. Odyssey Manufacturing Company, et. Al, Case No. 01-27699 CA25, in the Circuit Court of the 11<sup>th</sup> Judicial Circuit. The deposition of Mr. Sidelko, and the deposition of Mr. Allman were inadvertently filed in the open record of the Circuit Court case but have since been sealed by the Court pursuant to the protective order issued in that case. In light of the Court's decision to seal the depositions, and in light of the

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the highlighted portions of the deposition contain proprietary confidential business information intended to be, and kept, confidential by TECO, Odyssey, and Allied.

Section 366.093, Florida Statutes, defines “proprietary confidential business information” as:

[I]nformation, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

I find that the highlighted portions of the Sidelko deposition and errata sheet contain information that is entitled to confidential classification as proprietary business information under the provisions of section 366.093(3)(d) and (e), Florida Statutes, has previously been found confidential by the Commission, and shall be treated as such for all purposes under Rule 25-22.006, Florida Administrative Code, in this proceeding.

DN 09129-04

This request for confidential classification relates to portions of Odyssey’s Motion to Dismiss Amended Petition of Allied Universal Corporation and Chemical Formulators, Inc., filed in this docket August 20, 2004. Odyssey states that the designated portions of its motion to dismiss contain information relating to the rate for electric service contained in Odyssey’s CISR contract with TECO, which is the subject of this proceeding and was the subject of Allied’s earlier complaint in Docket No. 000061-EI. Odyssey explains that the rate information is confidential proprietary business information as defined in section 366.093, Florida Statutes, was found to be confidential in Docket No. 00061, and has been treated by Odyssey and TECO as confidential. I find that the highlighted portions of Odyssey’s motion to dismiss contain information that is entitled to confidential classification as proprietary business information under the provisions of section 366.093(3)(d)and (e), Florida Statutes, has previously been found confidential by the Commission, and shall be treated as such for all purposes under Rule 25-22.006, Florida Administrative Code, in this proceeding.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph “Rudy” Bradley, as Prehearing Officer, that Odyssey’s request for confidential classification of Document Nos. 04796-04 and 09129-0 is granted. It is further


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Commission’s previous decision to treat the information contained therein as confidential, I will continue to do so here.

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 29th day of March, 2005



RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

(SEAL)

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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, 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

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review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.