

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-05-0343-CFO-EI
ISSUED: March 29, 2005

ORDER GRANTING CONFIDENTIAL CLASSIFICATION
FOR DOCUMENT NOS. 01404-04, 05528-04, and 07305-04

Allied Universal Corporation and Chemical Formulators, Inc. (Allied) filed the documents referenced above as part of its 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 Manufacturing Company (Odyssey).¹ Allied has requested that certain information contained in the documents be treated as confidential pursuant to section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. The information contained in the documents for which Allied 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. The Commission first granted confidential classification for the contractual information in the earlier case. For the reasons explained below I grant Allied's request for confidential classification for each document in this case.

DN 01404-04

This request for confidential classification relates to portions of Allied's petition to vacate that initiated this proceeding. The request covers highlighted portions of the petition and exhibits A, D, and E attached to it. Allied states that the highlighted portions of the petition and exhibits contain specific information related to and arising from negotiations between TECO and Odyssey that culminated in the TECO/Odyssey CISR. Allied states that the petition also contains information related to negotiations between TECO and Allied relating to Allied's effort to obtain a CISR contract similar to Odyssey's. Allied asserts that the information contained in DN 01404-04 is considered confidential by TECO and Odyssey, and has previously been granted confidential treatment by the Commission. Allied also explains that pursuant to TECO's Commission-approved tariff governing contracts executed under TECO's CISR, those contracts

¹ 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

are considered confidential, as are the pricing levels and procedures described within the contract, and any information supplied by the customer through energy audits or as a result of negotiations pursuant to the contract.²

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 Allied’s petition to vacate and the exhibits attached to it 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 05528-04

This request for confidential classification relates to portions of the transcript of a deposition of an Odyssey employee, Patrick Allman, which was taken as part of Allied’s complaint against Odyssey in Miami-Dade Circuit Court.³ The highlighted portions of the deposition for which Allied seeks confidential classification contain information that relates to the contractual negotiations between TECO and Odyssey regarding the TECO/Odyssey CISR contract, is considered confidential by TECO and Odyssey, and has previously been granted confidential treatment by the Commission. Allied also explains that pursuant to TECO’s Commission-approved tariff governing contracts executed under TECO’s CISR, those contracts are considered confidential, as are the pricing levels and procedures described within the contract, and any information supplied by the customer through energy audits or as a result of negotiations pursuant to the contract. I find that the highlighted portions of the deposition of Patrick Allman 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

² The Commission granted confidential classification for the TECO/Odyssey CISR contract by Order No. PSC-01-1442-CFO-EI, issued July 5, 2001, in Docket No. 000061-EI, supra.

³ Allied Universal Corporation, et. al. v. Odyssey Manufacturing Company, et. Al, Case No. 01-27699 CA25, in the Circuit Court of the 11th Judicial Circuit. The depositions of Mr. Sidelko, parts of which are included in Allied’s first petition and amended petition to vacate, 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. In light of the Court’s decision to seal the depositions, and in light of the Commission’s previous decision to treat the information contained therein as confidential, I will continue to do so here.

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 07305-04

This request for confidential classification relates to portions of Allied's Amended Petition to vacate Commission Order No. PSC-01-1003-AS-EI, filed in this proceeding July 2, 2004. The request seeks confidential classification for portions of the amended petition and exhibits A, D, and E attached to it. Allied states that the highlighted portions of the petition and exhibits contain specific information related to and arising from negotiations between TECO and Odyssey that culminated in the TECO/Odyssey CISR. Allied states that the petition also contains information related to negotiations between TECO and Allied relating to Allied's effort to obtain a CISR contract similar to Odyssey's. Allied asserts that the information contained in DN 01404-04 is considered confidential by TECO and Odyssey, and has previously been granted confidential treatment by the Commission. Allied also explains that pursuant to TECO's Commission-approved tariff governing contracts executed under TECO's CISR, those contracts are considered confidential, as are the pricing levels and procedures described within the contract, and any information supplied by the customer through energy audits or as a result of negotiations pursuant to the contract. Allied also explains that pursuant to TECO's Commission-approved tariff governing contracts executed under TECO's CISR, those contracts are considered confidential, as are the pricing levels and procedures described within the contract, and any information supplied by the customer through energy audits or as a result of negotiations pursuant to the contract. I find that the highlighted portions of Allied's amended petition to vacate and the exhibits attached to it 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.

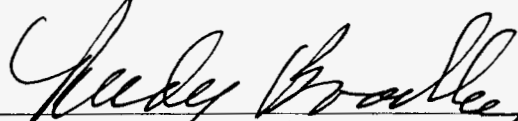
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Allied's request for confidential classification of Document Nos. 01404-04, 05528-04, and 07305-04 is granted. It is further

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

(S E A L)

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