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February 4, 2000

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RECORDS AND REPORTING
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Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Complaint of 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 and Petition to Examine and Inspect Confidential Information and Request for Expedited Relief; FPSC Docket No. 000061-EI

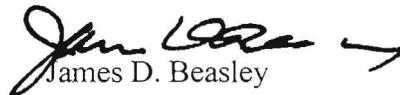
Dear Ms. Bayo

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Response to Petition to Examine and Inspect Confidential Information.

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,

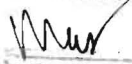

James D. Beasley

AFA _____
APP _____
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EAG _____
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RRR _____
SEC _____
WAW _____
OTH _____

JDB/pp
Enclosures

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

Done 6/27/00

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FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
01618 FEB-48
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Complaint of Allied Universal Corporation and)
Chemical Formulators, Inc. against Tampa Electric)
Company for Violation of Sections 366.03, 366.06(2))
and 366.07, Florida Statutes, with respect to Rates)
Offered Under Commercial/Industrial Service Rider)
Tariff and Petition to Examine and Inspect Confidential)
Information and Request for Expedited Relief.)
_____)

DOCKET NO. 000061-EI
FILED: February 4, 2000

**TAMPA ELECTRIC COMPANY'S RESPONSE TO PETITION
TO EXAMINE AND INSPECT CONFIDENTIAL INFORMATION**

Tampa Electric Company ("Tampa Electric" or "the company"), in accordance with Rule 25-22.006(7)(a), Florida Administrative Code, files this its Response to the Petition to Examine and Inspect Confidential Information filed in this proceeding on behalf of Allied Universal Corporation ("Allied") and Chemical Formulators, Inc. ("CFI") on January 20, 2000 and, says:

1. Allied/CFI's Petition to Examine and Inspect Confidential Information is inappropriately based on Rule 25-22.006(7)(a), Florida Administrative Code. That provision of the Commission's rule pertains to information that has been submitted to the Commission and has either been declared confidential, proprietary business information, pursuant to Section 366.093, Florida Statutes, or for which a ruling on confidentiality is pending. Tampa Electric has not submitted any Contract Service Agreement ("CSA") to the Commission nor has the Commission made any ruling on the confidentiality of any Tampa Electric CSA. No request for confidentiality is pending. While any such information is clearly confidential, it is not on file with the Commission and, therefore, is not an appropriate subject for a request under Rule 25-22.006(7)(a). Allied/CFI is erroneously attempting to use this provision of the Commission's

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FPSC-RECORDS/REPORTING

rule pertaining to confidentiality in lieu of making a discovery request of Tampa Electric. Allied and CFI's Petition is inappropriate, not contemplated under the Commission's rule, and should be dismissed.

2. Even if Allied and CFI's request to review a confidential CFA were appropriate, the Petitioner's request should nevertheless be denied. CSAs negotiated with CISR customers contain highly proprietary and confidential information the public disclosure of which would harm both the utility, its general body of ratepayers and the CISR customer who is a party to the CSA. This Commission has determined this on a number of occasions since the advent of CISR tariffs as a means to enable electric utilities to attract or retain at risk commercial/industrial customers for the benefit of their general body of ratepayers. For example, in a recent order¹ involving a confidentiality classification request by Gulf Power pertaining to negotiated CSA provisions the Commission observed:

. . . Upon review, it appears that the information for which Gulf seeks confidential classification is proprietary, confidential business information which, if disclosed, would tend to harm the competitive interests of Gulf and the entity with which it has negotiated a CSA contract. It appears as if the public disclosure of this information may prevent Gulf from successfully negotiating CSAs with customers. This information is regarded as sensitive and confidential by the CISR customer because public disclosure of this information would impact the customer's ability to compete in its "native market." In the event such information is made public, it appears as if future potential CIS rider customers could avoid the risk of public disclosure of their confidential information by refusing to negotiate with Gulf. This may lead to uneconomic bypass of Gulf's facilities. Therefore, this information is entitled to confidential classification under Section 366.093(3), Florida Statutes. In accord with Section 366.093(4), Florida Statutes, this information shall be granted confidential classification for a period of 18 months from the date of the issuance of this Order.

¹ Order No. PSC-99-0274-CFO-EI, issued February 11, 1999 in Docket No. 960789-EI

3. The above adverse effects cannot be avoided by having the business competitor of a CISR customer enter into a non-disclosure agreement because once the competitor reviews this competitive information the harm is done, whether or not the business competitor of the CISR customer agrees not to disclose the information to third parties. It is the business competitor itself who competes with the CISR customer – not any third party to whom the business competitor might be willing to agree not to disclose the information. The business competitor cannot learn proprietary confidential business information about one of its competitors for use in litigation, then erase its knowledge of, or “forget,” that information once the litigation is concluded. While Tampa Electric is willing to allow the Commission, should it so desire, to review, on a confidential basis, any Contract Service Agreement the company may enter into, such information clearly should not be disclosed to a business competitor of a CISR customer.

4. Tampa Electric is in the process of preparing a response to the remaining portions of Allied and CFI’s initial pleading and will timely file such responsive pleading. The company addresses Allied/CFI’s petition to examine and inspect confidential information at this point in view of the response time set forth in Rule 25-22.006(7)(a), Florida Administrative Code.

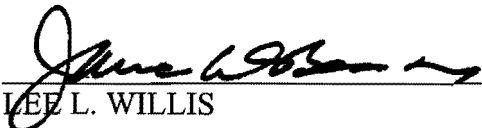
WHEREFORE, Tampa Electric urges the Commission to either dismiss as inappropriate or deny Allied and CFI’s Petition to Examine and Inspect Confidential Information for the reasons set forth above.

DATED this 4th day of February, 2000.

Respectfully submitted,

HARRY W. LONG, JR.
TECO Energy, Inc.
Post Office Box 111
Tampa, FL 33601

and



LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Response to Petition to Examine and Inspect Confidential Information filed by Allied/CFI, filed on behalf of Tampa Electric Company, has been furnished by hand delivery(*) or U. S. Mail this 4th day of February 2000 to the following:

Mr. Robert V. Elias*
Staff Counsel
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. Kenneth Hoffman
Mr. John Ellis
Rutledge Law Firm
Post Office Box 551
Tallahassee, FL 32302

Allied Universal Corporation
8350 N.W. 93rd Street
Miami, FL 32166-2026

Chemical Formulators, Inc
5215 West Tyson Avenue
Tampa, FL 33611-3223



ATTORNEY

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