

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
JOHN R. ELLIS
KENNETH A. HOFFMAN
THOMAS W. KONRAD
MICHAEL G. MAIDA
J. STEPHEN MENTON
R. DAVID PRESCOTT
HAROLD F. X. PURNELL
GARY R. RUTLEDGE

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

OF COUNSEL:
CHARLES F. DUDLEY

GOVERNMENTAL CONSULTANTS:
PATRICK R. MALOY
AMY J. YOUNG

April 7, 2000

Robert V. Elias, Esq.
Marlene Stern, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, FL 32399-0850

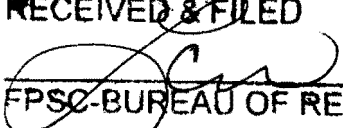
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Re: Allied/CFI v. TECO
Docket No. 000061-EI

Dear Bob and Marlene:

In our conference call yesterday afternoon following the mediation on April 5, you invited the filing of written comments by the parties on the issues of the propriety of and procedures for the disclosure to Allied/CFI of confidential information concerning TECO's CISR tariff rates. Allied/CFI's position on these issues has been stated in several previous filings in this docket, including: Allied/CFI's complaint and petition to examine and inspect confidential information; Allied/CFI's motion for expedited responses to discovery requests; Allied/CFI's reply in support of its petition to examine and inspection confidential information; Allied/CFI's response to staff's proposed issues; Allied/CFI's response in opposition to TECO's motion for protective order, for suspension of procedural schedule, and for summary disposition; and Allied/CFI's request for confidential classification with respect to the direct testimony of Robert M. Namoff. Staff's recommendation filed on March 16, 2000, in response to TECO's request for proposed procedures, summarizes Allied/CFI's position on these issues. Allied/CFI incorporates these previous statements of its position as though fully set forth herein as well as its comments made at the Agenda Conference on March 28, 2000. Allied/CFI also provides the following additional comments.

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1. The Commission's Standard Procedures for Handling of Confidential Information are Sufficient to Prevent Disclosure to Non-Parties.

Rule 25-22.006, Florida Administrative Code, and the Order Establishing Procedure and Responding to Complainant's Motion for Expedited Responses to Discovery Requests, Order No. PSC-00-0392-PCO-EI issued February 23, 2000, provide sufficient procedures to secure the confidentiality of information concerning TECO's CISR tariff rates as to non-parties to this proceeding. Allied/CFI has offered to enter into a protective agreement to facilitate the handling of confidential information produced in response to discovery requests and in the filing of testimony and examination of witnesses, and Allied/CFI has provided a draft Protective Agreement to counsel for TECO and Odyssey accordingly. There has been no showing by TECO or Odyssey that disclosure to Allied/CFI of confidential CISR tariff information would lead to disclosure of such information to non-parties to this proceeding.

2. Disclosure to Allied/CFI Will Not Harm the Viability of CISR Tariffs.

There is a simple and obvious reconciliation of the apparent conflict between: (1) the rights of commercial/industrial customers such as Allied/CFI to not be subjected to undue discrimination as a result of CISR tariff rate negotiations, and to due process in the litigation of their claims of undue discrimination; and (2) TECO's and its ratepayers' interests in preserving the economic benefits of the CISR tariff in attracting and retaining at-risk load, by preserving the confidentiality of information exchanged in CISR tariff rate negotiations. Simply, the lowest CISR tariff rates offered to one qualifying commercial/industrial customer in a particular industry - such as liquid bleach manufacturing, or shoe manufacturing, or semiconductor manufacturing, or any other industry in which Florida seeks to promote job growth and economic development - must be offered to other customers who compete in the same industry and who qualify for CISR tariff rates. As to other customers who compete with a CISR tariff customer, only applicants who qualify for CISR tariff rates may obtain such rates.

The obvious result of this requirement would be the elimination of the potential for litigation over rates between qualifying CISR tariff applicants who are competitors in the same industry, by the elimination of the potential for discrimination.

There is no risk that disclosure of CISR tariff rate information to Allied/CFI in this proceeding will lead to price convergence in TECO's future CISR tariff rate negotiations with customers in different industries. However, price convergence between similarly situated customers who qualify for rates under the same tariff is not only not a "harm" with respect to tariffs generally, or a threat to the viability of CISR tariffs specifically, it is exactly and only what is required under the laws prohibiting undue discrimination.

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3. Disclosure of CISR Tariff Information to Allied/CFI Is Required if the Commission Is to Exercise Its Jurisdiction to Adjudicate Allied/CFI's Complaint of Undue Discrimination Consistent with the Requirements of Chapter 120, Florida Statutes.

Allied/CFI's complaint alleges the violation by TECO of the prohibition against undue discrimination stated in Sections 366.03, 366.06(2), and 366.07, Florida Statutes, as a result of the disparity between the CISR tariff rates agreed to between TECO and Odyssey in October 1998, and the CISR tariff rates offered by TECO to Allied/CFI on October 18, 1999. Under Section 120.57(1), Florida Statutes, Allied/CFI must be given an opportunity to present evidence and argument on all issues involved in this proceeding, and to conduct cross-examination of TECO's and Odyssey's witnesses and to submit rebuttal evidence in response to evidence submitted by TECO and Odyssey.

On March 10, 2000, pursuant to a request for confidential classification, TECO filed Document No. 031432-00, identified as a 1-page side-by-side reconciliation of CSA rates, terms, and conditions TECO negotiated with Odyssey compared to those last discussed with Allied/CFI. If there is any disparity between those rates, terms, and conditions, then this document must be disclosed to Allied/CFI without further delay. There can be no resolution of Allied/CFI's claims for undue discrimination consistent with Allied/CFI's rights to due process under Section 120.57(1), Florida Statutes, without disclosure of this document.

Allied/CFI does not dispute Odyssey's claim that certain information provided by Odyssey to TECO is trade secret information entitled to protection against disclosure, and Allied/CFI does not seek disclosure of such trade secret information. However, if Odyssey is suggesting that disclosure of the information concerning rates, terms and conditions contained in Document No. 03142-00 somehow constitutes trade secret information, then it is apparent that Odyssey is attempting to delay proceedings in this docket in order to continue to exploit its competitive advantage in the marketplace which it obtained as a result of the CISR tariff rate negotiations in question.

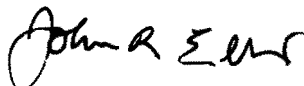
If there is a disparity between the rates, terms, and conditions TECO offered to Odyssey and to Allied/CFI reflected in Document No. 03142-00, then TECO should be ordered to: (1) produce to Allied/CFI copies of the documents filed as Document No. 03141-00 on March 10, 2000, identified as 1 notebook, Bates-stamped 1547-A through 1910-A, containing all document relevant to CISR CSA negotiations between TECO and Allied/CFI; (2) produce to Odyssey copies of the documents filed as Document No. 03140-00 on March 10, 2000, identified as 2 notebooks, Bates-stamped 7-0 through 357-0 and 358-0 through 523-0, and 2 pouches of additional documents, Bates-stamped 524-0 through 1545-0, comprising all documents relevant to CISR Contract Service Agreement negotiations between TECO and Odyssey; and (3) provide answers without objections to Allied/CFI's first set of interrogatories served on February 2, 2000, and to Staff's First Set of

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Interrogatories served on February 17, 2000. Within seven days thereafter, Allied/CFI and Odyssey should exchange: (1) designations of documents produced to them by TECO which are contended to contain trade secret information; and (2) copies of documents produced to them by TECO as to which no claim of trade secret information is asserted, and redacted copies of documents insofar as information asserted to be trade secret information may be readily redacted. Thereafter, an *in camera* inspection before the Prehearing Officer may be requested by any party to challenge a claim of trade secret information. The scheduled prehearing conference and final hearing dates should stand, and new dates for filing of testimony should be scheduled.

Sincerely,

A handwritten signature in black ink that reads "John R. Ellis". The signature is written in a cursive style with a large initial "J" and "E".

John R. Ellis

JRE/rl

cc: James D. Beasley, Esq.
Harry W. Long, Jr., Esq.
Wayne L. Schiefelbein, Esq.
Patrick K. Wiggins, Esq.
Division of Records and Reporting