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ORIGINAL

May 16, 2000

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

HAND DELIVERY

RECORDS AND
REPORTING

00 MAY 16 PM 4:45

RECEIVED-FPSC

Re: Docket No. 000061-EI

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Allied Universal Corporation ("Allied") and Chemical Formulators, Inc. ("CFI") are the following documents:

1. Original and fifteen copies of Allied/CFI's Response to Tampa Electric Company's First Request for Admissions (Nos. 1-21); and
2. A disk in Word Perfect 6.0 containing a copy of the document.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,

John R. Ellis

AFA	_____
APP	_____
CAF	_____
CMU	_____
CTR	_____
EAQ	_____
LEG	_____
MAG	_____
OPC	_____
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SEC	_____
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Enclosures

Tab.3

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
06045 MAY 16 8
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; petition to examine and inspect confidential information; and request for expedited relief.

Docket No. 000061-EI

Filed: May 16, 2000

ALLIED/CFI'S RESPONSE TO TAMPA ELECTRIC COMPANY'S FIRST REQUEST FOR ADMISSIONS (NOS. 1-21)

Allied Universal Corporation ("Allied") and its affiliate, Chemical Formulators, Inc. ("CFI"), hereinafter referred to collectively as "Allied/CFI," by and through their undersigned counsel, and pursuant to Rule 1.370(a), Florida Rules of Civil Procedure and Rule 28-106.204, Florida Administrative Code, hereby respond to the First Request for Admissions (Nos. 1-21) served by Tampa Electric Company ("TECO").

1. It is admitted that CFI's existing manufacturing facility in Tampa currently takes electric service from TECO on the terms and conditions stated. However, this proceeding involves Allied/CFI's request for electric service to its proposed new manufacturing facility in Tampa which qualifies for rates under TECO's Commercial/Industrial Service Rate ("CISR") tariff and under TECO's rate schedule GSLDT, as confirmed by TECO's letter of October 18, 1999 (a copy of which is attached as Confidential Exhibit ___ (RMN-13) to the Prefiled Direct Testimony of Robert M. Namoff). Except as expressly admitted herein, Request No. 1 is denied.

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2. It is admitted that under the terms of its CISR tariff TECO is authorized to offer a negotiated rate with the incremental cost plus a contribution to fixed costs to serve the customer as the price floor. However, in response to Allied/CFI's application for CISR tariff rates, TECO was not authorized to negotiate rates for service higher than the rates agreed to between TECO and Odyssey Manufacturing Company ("Odyssey"). Except as expressly admitted herein, Request No. 2 is denied.

3. It is admitted that TECO's CISR tariff is available to new customers (new load) or to existing customers (retained load) who can show that they can have viable alternatives to taking electric service from TECO (at-risk load) and that TECO is required to obtain, as a condition to offering CISR tariff rates: (1) legal attestation or an affidavit stating that, but for the application of the CISR tariff, the load would not be served by TECO; and (2) documentation demonstrating that the applicant customer has a viable lower cost alternative to taking service from TECO. It is further admitted that TECO has the burden of proof that its decision to enter into a particular Contract Service Agreement ("CSA") was made in the interest of the general body of ratepayers, such that if the Commission finds that a particular CSA was not a prudent decision, then the revenue difference between the standard rate and the CISR rate could be imputed to TECO. However, TECO's letter of October 18, 1999 bargains for a right of first refusal to serve all other Allied/CFI facilities in Florida and Georgia without any prior determination by TECO concerning the "at risk" status of such load. Except as expressly admitted herein, Request No. 3 is denied.

4. Admitted.

5. It is admitted that the statutes and decisional law which prohibit TECO from giving undue or unreasonable preference or advantage to any person and prohibit TECO from subjecting

any person to any undue or unreasonable prejudice or disadvantage through unjust, unreasonable, excessive or unjustly discriminatory or preferential rates, are not referenced in the express terms of TECO's CISR tariff. However, the tariff must be construed with reference to existing controlling law, State ex rel. Ellis v. Tampa Waterworks Co., 48 So. 639, 640 (Fla. 1909), and the Commission cannot abrogate its authority to assure that its mandate from the Legislature is carried out. In re: Investigation into the earnings and authorized return on equity of Gulf Power Company, Order No. PSC-99-2131-S-EI, issued October 28, 1999, in Docket Nos. 990250-EI and 990947-EI. Except as expressly admitted herein, and to the extent that this request suggests or asks Allied/CFI to admit that TECO is no longer subject to the prohibition against undue discrimination in connection with negotiated rates offered under TECO's CISR tariff as a result of the Commission's approval of the terms of that tariff, Request No. 5 is denied.

6. It is admitted that the statutes and decisional law which prohibit TECO from giving undue or unreasonable preference or advantage to any person and which prohibit TECO from subjecting any person to any undue or unreasonable prejudice or disadvantage through unjust, unreasonable, excessive or unjustly discriminatory or preferential rates, are not referenced in the express terms of TECO's CISR tariff. However, the tariff must be construed with reference to existing controlling law, State ex rel. Ellis v. Tampa Waterworks Co., 48 So. 639, 640 (Fla. 1909), and the Commission cannot abrogate its authority to assure that its mandate from the Legislature is carried out. In re: Investigation into the earnings and authorized return on equity of Gulf Power Company, Order No. PSC-99-2131-S-EI, issued October 28, 1999, in Docket Nos. 990250-EI and 990947-EI. Except as expressly admitted herein, and to the extent that this request suggests or asks Allied/CFI to admit that TECO is no longer subject to the prohibition against undue discrimination

in connection with negotiated rates offered under TECO's CISR tariff as a result of the Commission's approval of the terms of that tariff, Request No. 6 is denied.

7. Denied. The prohibition against undue discrimination may compel TECO to grant requests for service under its CISR tariff under certain circumstances, for example to an applicant who qualifies for service under the CISR tariff and who is similarly situated with respect to a CISR tariff customer.

8. Denied. The process which resulted from Allied/CFI's request for rates under TECO's CISR tariff cannot fairly be characterized as "negotiations."

9. Denied. The rates applicable to Allied/CFI's request for rates under TECO's CISR tariff were the rates agreed to between TECO and Odyssey. Additionally, Allied/CFI incorporates its response to Request No. 8 and denies Request No. 9 on that ground.

10. Denied. The rates offered in TECO's October 18, 1999 letter were inherently unreasonable and unduly discriminatory in comparison to the rates agreed to between TECO and Odyssey. Additionally, Allied/CFI incorporates its response to Request No. 8 and denies Request No. 10 on that ground.

11. It is admitted that in the context of the provision of utility service, undue discrimination occurs when two customers, who are similarly situated and who are competitors in business, are offered different rates, terms or conditions for substantially the same utility service, resulting in actual or potential competitive injury to the disfavored customer. Except as expressly admitted herein, Request No. 11 is denied.

12. Admitted.

13. Denied. Franchise fees and tax obligations of a customer are not part of a utility's

rates for electric service although they are reflected in the bill to the customer.

14. It is admitted that the efficiency, sufficiency, and adequacy of the facilities provided and services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources are all considerations in establishing rates and determining whether differences in rates offered by a utility to individual customers constitute undue discrimination. It is further admitted with respect to the facts involved in this proceeding that CISR tariff rates which differ only by the absolute amount of any difference in TECO's incremental cost to serve Allied/CFI and Odyssey would not constitute undue discrimination if all other terms and conditions offered by TECO to Allied/CFI are substantially the same as all other terms and conditions agreed to between TECO and Odyssey. Except as expressly admitted herein, Request No. 14 is denied.

15. Denied.

16. Admitted.

17. Denied. This representation was implied to Bob Namoff by Larry Rodriguez and Bill Ashburn in their first meeting on May 28, 1999, and in subsequent communications in June and July, 1999, as stated in Mr. Namoff's prefiled direct testimony at pages 6-11.


18. Denied. The representation that TECO's CISR tariff rates would be competitive with Georgia Power's offered rate was made to Bob Namoff by Larry Rodriguez and Bill Ashburn in their first meeting on May 28, 1999, as stated in Mr. Namoff's prefiled direct testimony at pages 6-7.

19. Admitted.

20. Allied/CFI incorporates its response to request for admission no. 8. Subject to that response, it is admitted that Allied/CFI have not entered into a CSA for electric service pursuant to TECO's CISR tariff as a result of the October 18, 1999 letter from TECO. Except as expressly admitted herein, Request No. 20 is denied.

21. Denied.

Respectfully submitted,



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Attorneys for Allied Universal Corporation and
Chemical Formulators, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Allied/CFI's Response to Motion to TECO's First Request for Admissions (Nos. 1-21) was furnished by hand delivery(*) and/or by facsimile telecopier and mail to the following this 16th day of May, 2000:

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Allied/admissions.response