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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Allied Universal Corporation and Chemical Formulators, Inc. against Tampa Electric Company)))

DOCKET NO. 000061-EI Filed: June 15, 2000

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MOTION FOR PROTECTIVE ORDER BY ODYSSEY MANUFACTURING COMPANY

Intervenor, Odyssey Manufacturing Company (Odyssey), by and through its undersigned counsel, and pursuant to Rule 25-22.006(6), Florida Administrative Code and Florida Rule of Civil Procedure 1.280(c)(7), requests entry of a protective order providing that certain proprietary confidential business information not be disclosed, and in support states the following.

1. Allied Universal Corporation and Chemical Formulators, Inc. (the Complainants) seek to examine the Contract Service Agreement (CSA) entered into between Tampa Electric Company (Tampa Electric) and Odyssey, and any and all documentation supporting the Commercial/Industrial Service Rider (CISR) tariff rates established thereunder, including documentation demonstrating that Odyssey met all requirements and preconditions of the CISR tariff, and documentation supporting Tampa Electric's determination of its incremental cost to serve Odyssey. In that regard, the Complainants have made discovery requests to Tampa Electric seeking access, inter alia, to all documents provided by Odyssey to Tampa Electric in connection with Odyssey's request for rates under the CISR tariff, and all documents arising from or relating to CISR tariff rate negotiations between Tampa Electric and Odyssey.

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2. The Complainants' examination of such documents would violate the confidentiality provision of Tampa Electric's CISR tariff, as approved by the Commission in August, 1998. The CISR tariff provides in pertinent part as follows.

The CSA shall be considered a confidential document. The pricing levels and procedures described within the CSA, as well as any information supplied by the customer through the energy audit or as a result of negotiations or information requests by the Company and information developed by the Company in connection therewith, shall be made available for review by the Commission and its Staff only and such review shall be made under the confidentiality rules of the Commission.

3. Odyssey provided extensive proprietary confidential business information to Tampa Electric in reliance upon said confidentiality provision. Disclosure of this information to Complainants, direct competitors of Odyssey, would adversely impact Odyssey's ability to compete in its native market. However, with limited exceptions enumerated below, Odyssey believes that Tampa Electric's pending Supplemental Motion for Protective Order provides an acceptable balance of protection of Odyssey's proprietary confidential information and Complainants' legitimate due process rights.

4. On March 10, 2000, Tampa Electric submitted its pending Request for Confidential Classification of Documents, together with notebooks containing, inter alia, sixty (60) discretely identified documents provided by Odyssey to Tampa Electric in connection with the CISR and the CSA between the two parties. Odyssey asserts that its interests in maintaining confidentiality of four (4) of those documents in their entirety, and limited portions of a fifth document, far outweigh any assertion by Complainants of reasonable necessity for production or disclosure. Those documents, are as follows.

- a) Document #4, in its entirety, which Odyssey represents is a one (1) page sheet containing information regarding conditions of certain debt financing obtained by Odyssey in connection with the plant that is the subject of this proceeding;

- b) that portion of the first full paragraph of the first page of Document #49 which Odyssey represents identifies the number of employees and annual sales of, and gallons delivered by, Odyssey's affiliate; Document #49;
- c) Document #54, in its entirety, which Odyssey represents is a two (2) page document disclosing the average sales costs and revenue data for the products of Odyssey's affiliate in the manufacture of bleach and which provides extensive cost of sales and revenue data for the manufactured products of Odyssey's affiliate;
- d) Document #56, in its entirety, which Odyssey represents is an eight (8) page document disclosing cost, shipping, inventory and production data of Odyssey's affiliate; and
- e) Document #57, in its entirety, which Odyssey represents is a three (3) page "Company Profile" containing data on sales, production, distribution, process description, financial information, customer base, and projected growth of Odyssey's affiliate.

5. Odyssey has treated the foregoing documents as proprietary confidential business information within the meaning of Section 366.093, Florida Statutes.

6. None of the foregoing documents are relevant to the claims of the Complainants in this proceeding, nor are they reasonably calculated to lead to the discovery of admissible evidence.

7. The undersigned counsel and counsel for the Complainants have engaged, and continue to engage, in good faith direct discussions regarding possible stipulations regarding procedure relative to the disputes over the Complainants' inspection of documents and other information in this proceeding. Said counsel agree that the existence of such ongoing discussions should not create any additional delay in the disposition of all other pending motions. Counsel for the Complainants has authorized the undersigned to represent that the Complainants do not seek disclosure of the

information cited above within the documents or portions of documents enumerated hereinabove.

Wherefore, Odyssey Manufacturing Company requests that the Prehearing Officer issue an order in this proceeding providing that the documents or portions of documents identified hereinabove not be disclosed to the Complainants or otherwise made subject to inspection by any person, other than the Commission and its Staff.

Respectfully submitted this 15th day of June, 2000.

Wayne L. Schiefelbein

Wayne L. Schiefelbein
Wiggins & Villacorta, P.A.
2145 Delta Boulevard (32303)
Suite 200
Post Office Drawer 1657
Tallahassee, Florida 32302
(850) 385-6007 Telephone
(850) 385-6008 Facsimile

Counsel for
Odyssey Manufacturing Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by facsimile and U.S. Mail to John R. Ellis, Esq. and Kenneth A. Hoffman, Esq., Rutledge, Ecenia, Purnell & Hoffman, 215 South Monroe St., Suite 420, Tallahassee, FL 32301; James D. Beasley, Esq. and Lee L. Willis, Esq., Ausley & McMullen, 227 South Calhoun St., Tallahassee, FL 32301; Marlene K. Stern, Esq., Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850; and Harry W. Long, Jr., Esq., TECO Energy, Inc., P.O. Box 111, Tampa, FL 33601, this 15th day of June, 2000.



Wayne L. Schiefelbein