

ORIGINAL

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

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RECORDS AND REPORTING

AMENDED PETITION FOR LEAVE TO INTERVENE BY SENTRY INDUSTRIES, INC.

Sentry Industries, Inc. (Sentry), pursuant to Rule 28-106.205, F.A.C., petitions the Commission for leave to intervene in this proceeding, and in support of its amended petition states the following:

1. The name, address and telephone number of the Petitioner are:

Sentry Industries, Inc.
5687 N.W. 36th Avenue
Miami, FL 33142
(305) 638-0800

2. The names, addresses and telephone numbers of the Petitioner's representatives in this proceeding are:

Wayne L. Schiefelbein
P.O. Box 15856
Tallahassee, FL 32317-5856
(850) 422-1013
(850) 531-0011 (facsimile)

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
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(850) 385-6008 (facsimile)

Scott J. Fuerst
Ruden, McClosky, Smith, Schuster & Russell, P.A.
200 East Broward Boulevard
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(954) 333-4017 (facsimile)

3. Petitioner is a competitor of Allied Universal Corporation and Chemical Formulators, Inc. (Allied/CFI) in the manufacture of liquid chlorine bleach.

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4. Allied/CFI initiated this proceeding by filing a Complaint against Tampa Electric Company (Tampa Electric), alleging discrimination in rates for electric service offered to Allied/CFI for a proposed plant under Tampa Electric's commercial/industrial service rider (CISR) tariff, and the CISR tariff rates agreed to under a Contract Service Agreement (CSA) between Tampa Electric and Odyssey Manufacturing Company (Odyssey) for Odyssey's new plant.
5. Sentry and Odyssey are closely held corporations. Sentry is a Florida corporation. Odyssey is a Delaware corporation. Stephen W. Sidelko is the founder, President and Chief Executive Officer of Sentry and Odyssey.
6. In 1984, Mr. Sidelko founded U.S. Chlorine, Inc.. In 1993, that company changed its name to Sentry Industries, Inc.. In 1998, Mr. Sidelko founded Odyssey; Odyssey was incorporated on June 30, 1998. Odyssey's first plant went into operation on March 27, 2000.
7. During the negotiations in 1998 with Tampa Electric for Odyssey's CISR rate, Mr. Sidelko submitted proprietary confidential business information about Sentry to demonstrate his well-established track record in the liquid chlorine bleach manufacturing business. He did so in reliance on a Confidentiality and Non-Disclosure Agreement dated March 18, 1998, between Sentry and Tampa Electric.
8. Allied/CFI seek to examine and inspect, inter alia, any and all documentation supporting the CISR tariff rates established under the CSA between Odyssey and Tampa Electric, including documentation demonstrating that Odyssey met all requirements and preconditions of the CISR tariff. Tampa Electric asserts that it submitted all such documentation to the Commission on March 10, 2000.
9. On information and belief, said Confidentiality and Non-Disclosure Agreement was included in Tampa Electric's March 10, 2000 submittal to the Commission, at Bates-stamp pages 130-0 and 131-0. On September 22, 2000, the undersigned counsel advised counsel for Tampa Electric that Sentry had no objection to Allied/CFI being provided a copy of said Confidentiality and Non-Disclosure Agreement pursuant to an appropriate Protective Agreement.
10. Among the documentation provided by Sentry to Tampa Electric are documents which constitute proprietary confidential business information of Sentry, including sensitive information about Sentry's own sales and revenue and the identity of its primary customers and the share of Sentry's sales associated with such primary customers. Sentry provided such proprietary confidential business information pursuant to and in reliance on its aforesaid March 18, 1998 Confidentiality and Non-Disclosure Agreement with Tampa Electric. Disclosure of such information to the public at large, or, specifically, to its business competitors, such as Allied/CFI, would cause serious harm to Sentry, by, inter alia, facilitating competitive efforts targeting Sentry's primary customers.

11. Although Allied/CFI has stated that they do not object to issuance of a protective order withholding such Sentry documents from production, the Commission appears to be reluctant to grant Odyssey's efforts to date to obtain a protective order for some Sentry proprietary confidential business information. Mr. Sidelko identified himself as the President and Chief Executive Officer of both Sentry and Odyssey and provided background about Sentry in his prefiled direct testimony filed with the Commission on June 28, 2000. Mr. Sidelko also appeared on behalf of Odyssey before the Commission at its August 1, 2000 agenda conference, identifying his capacity on behalf of both Odyssey and Sentry. By Order No. PSC-00-1530-PCO-EI, issued on August 23, 2000, the Commission nonetheless declined to grant a protective order for Sentry's proprietary confidential business information because Sentry was not a party to this proceeding. (at page 11) More recently, by Order No. PSC-00-1598-PCO-EI, issued on September 6, 2000, the Prehearing Officer partially granted the uncontested motion for protective order filed by Odyssey on June 15, 2000, finding that portions of several Sentry documents met the confidentiality criteria of Section 366.093, Florida Statutes. However, the Prehearing Officer thereby limited protection of a Company Profile of Sentry to "numbers representing monetary values." (at page 3) It is unclear to Sentry whether redaction of "numbers representing monetary values" would apply to percentages of Sentry's before tax profit or to the number of customers which constitute certain percentages of Sentry's sales. Further, redaction of "numbers representing monetary values" would provide no protection from disclosure of the identity of Sentry's largest customers included in such Company Profile.
12. The Prehearing Officer did rule that "(i)f Odyssey believes additional information in the company profile qualifies for a protective order, Odyssey shall submit a copy of the document with the lines numbered, identify the specific line where the information is found, and provide a specific justification for each request in such line." (at page 3) Concurrently with this amended petition, Odyssey is filing an amended formal request for confidential classification of additional portions of Sentry's Company Profile. Sentry supports that motion. Given the Commission's statement in its August 23, 2000, Order, declining to extend protection to Sentry's proprietary confidential business information because of Sentry's status as a non-party, Sentry submits the instant Amended Petition in an abundance of caution.
13. Sentry's substantial interests are clearly subject to determination or will be affected by the Commission's disposition of Allied/CFI's request to inspect and examine documents which contain Petitioner's proprietary confidential business information in this proceeding, in that the Commission will determine whether Sentry's proprietary confidential business information will be disclosed to its competitors and the general public. The scope of Section 366.093, Florida Statutes, clearly embraces Sentry's substantial interests within the zone of interests that the statute is intended to protect.

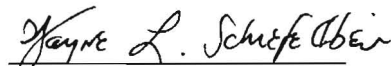
14. Petitioner is aware of the following disputed issues of material fact:

whether Tampa Electric gave an undue and unreasonable preference and advantage to Odyssey, and has subjected Allied/CFI to an undue and unreasonable prejudice and disadvantage, with respect to the CISR tariff rates offered by Tampa Electric to Odyssey and to Allied/CFI;

whether Tampa Electric breached its obligation of good faith in the exercise of its discretion in offering the CISR tariff to any customer who complies with the conditions of the tariff.

Wherefore, Sentry Industries, Inc. requests that the Commission grant it leave to intervene in this proceeding; grant Odyssey's September 18, 2000, Request for Confidential Classification, or Alternatively, Amended Motion for Protective Order; otherwise preserve the confidentiality of Petitioner's proprietary confidential business information; and such other relief as the Commission deems just and reasonable.

Respectfully submitted,

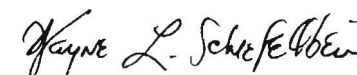


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Attorney for Sentry Industries, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent by U.S. Mail to Harry W. Long, Jr., Esq., TECO Energy, Inc., P.O. Box 111, Tampa, FL 33601, and Scott J. Fuerst, Esq., Ruden McClosky Smith Schuster & Russell, P.A., 200 East Broward Blvd., Fort Lauderdale, FL 33301, and by hand-delivery to John R. Ellis, Esq. and Kenneth A. Hoffman, Esq., Rutledge, Ecenia, Purnell & Hoffman, 215 S. Monroe St., Suite 420, Tallahassee, FL 32301; James D. Beasley, Esq. and Lee L. Willis, Esq., Ausley & McMullen, 227 S. Calhoun St., Tallahassee, FL 32301; Patrick K. Wiggins, Esq., Wiggins & Villacorta, 2145 Delta Blvd., Suite 200, Tallahassee, FL 32303; and to Marlene K. Stern, Esq., Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, on this 25th day of September, 2000.



Wayne L. Schiefelbein