

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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: October 9, 2000

**TAMPA ELECTRIC COMPANY’S MOTION TO COMPEL
RESPONSES TO INTERROGATORIES**

Pursuant to Rule 1.380, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, Tampa Electric Company (“Tampa Electric” or “Company”) hereby requests that this Commission issue an order directing Allied Universal Corporation and Chemical Formulators, Inc. (“Allied/CFI”) to Produce to Tampa Electric those documents that are responsive to Tampa Electric’s First Set of Interrogatories (Nos.1-24) (“Interrogatories”) and says:

1. On September 28, 2000, Allied/CFI filed their objections to Tampa Electric’s Interrogatories. They have refused to respond to Interrogatory Nos. 2(b)-(e), 3, 5, 6, 7, 8, and 9 on the grounds that these requests call for “trade secret information, and call for documents containing information that is not relevant to the subject matter of this proceeding and not calculated or likely to lead to the discovery of evidence which would be admissible in this proceeding.”

DOCUMENT NUMBER-DATE

12862 OCT-98

FPSC-RECORDS/REPORTING

2. Interrogatory Nos. 2, 3, 5, 6, 7, 8 and 9 are as follows:
2. *For each product identified in response to Interrogatory No. 1, please provide the following information:*
 - (a) *The principal applications or uses for each product;*
 - (b) *The annual volume of each product produced by Allied/CFI, by manufacturing facility;*
 - (c) *Allied/CFI's market share in Florida for each product;*
 - (d) *Allied/CFI's 15 largest customers (by volume sold) for each product; and*
 - (e) *Allied/CFI's annual gross revenue derived from the sale of each product in Florida.*
 3. *Please identify Allied/CFI's competitors in Florida for each of the products identified in response to Interrogatory No. 1.*
 5. *Please describe in detail the substance of all conversations, correspondence, meetings, comments, offers or contacts of any kind between Allied/CFI representatives who have executed the Non-Disclosure agreement in this proceeding and existing or potential customers related, in whole or in part, to Odyssey Manufacturing Company, its products, prices, operations or representatives since August 1, 2000.*
 6. *Please describe in detail the substance of all conversations, correspondence, meetings, comments, offers or contacts of any kind, other than those identified in response to Interrogatory No. 4, between Allied/CFI and existing or potential customers related, in whole or in part, to Odyssey Manufacturing Company, its products, prices, operations or representatives since August 1, 2000.*
 7. *For each event described in response to Interrogatory Nos. 5 and 6, provide the following information:*
 - (a) *Identify the Allied/CFI representative and the Customer representative involved in each event;*
 - (b) *State when and where the event took place; and*
 - (c) *Identify any documents that refer to or memorialize the event.*
 8. *List each bid or written offer made in direct competition with Odyssey Manufacturing Company by Allied/CFI since October 1, 1998, for the sale of one or more the products identified in response to Interrogatory No. 4.*
 9. *For each bid or offer identified in response to Interrogatory No. 8, provide the following information:*

- (a) *The identity of the customer to whom the bid or offer was submitted;*
- (b) *The product to be sold;*
- (c) *The date on which the bid or offer was submitted to the customer;*
- (d) *A detailed description of the price, terms and conditions bid or offered;*
- (e) *An explanation of how the price offered or bid was calculated;*
- (f) *The identity of the person or persons who formulated the bid or offer;*
- (g) *The identity of the person or persons who presented or delivered the bid or offer to the customer;*
- (h) *The price, terms and conditions bid or offered by Odyssey Manufacturing Company;*
- (i) *The Customer's response to Allied/CFI's bid or the offer or current status of the bid or offer; and*
- (j) *The substance of any communications between Allied/CFI and the customer with regard to Odyssey Manufacturing's bid or offer.*

3. Tampa Electric is mystified by Allied/CFI's assertion that the subject matter of the above-mentioned Interrogatories is not relevant to the subject matter of this proceeding. The requested documents could shed light on several clearly relevant issues such as the genuineness of Allied/CFI's interest in Tampa as a site for its proposed new bleach plant and the nature and extent of any competitive disadvantage to Allied/CFI as the result of its Commercial Industrial Service Rider ("CISR") negotiations with Tampa Electric. Indeed, the essence of Allied/CFI's claim in this proceeding is that its ability to compete with Odyssey Manufacturing Company ("Odyssey") has been compromised by Tampa Electric's failure to properly apply its CISR tariff.

4. If the Commission concludes, as Tampa Electric believes, that Allied/CFI's unfounded claims of economic disadvantage are irrelevant in the context of this proceeding, then the above-mentioned

Interrogatories are, in fact, irrelevant and, therefore, need not be answered. However, Allied/CFI cannot be permitted to insist that its alleged economic disadvantage is a material fact that the Commission should consider while arguing, at the same time, that discovery on this issue must be denied.

5. Allied/CFI objects to Interrogatory No. 13 on the grounds that the information requested is a trade secret. Allied/CFI does not allege that the requested information is not relevant to the subject matter of this proceeding. Based on this tacit admission of relevance, Allied/CFI should be required to provide the requested information pursuant to the non-disclosure agreement approved by the Commission for use in this proceeding.

6. Although Allied/CFI have voiced objections to responding to Interrogatory Nos. 11(b), 20, and 21, they have, nonetheless, agreed to respond to those requests. They have raised no objection with regard to request Nos. 1, 2(a), 4, 10, 11(a), 12, 14-19, and 22-24.

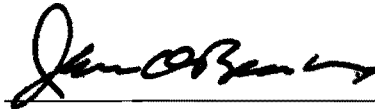
WHEREFORE, Tampa Electric requests an order compelling Allied/CFI to respond to Interrogatory Nos. 2(b)-(e), 3, 5, 6, 7, 8, 9 and 13 or, in the alternative, a ruling that Allied/CFI's assertions of competitive harm and economic disadvantage in its competition with Odyssey are irrelevant to this proceeding and provide no basis for the relief requested by Allied/CFI in its complaint.

DATED this 9th day of October, 2000.

Respectfully Submitted,

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And



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion to Compel Response to Interrogatories, filed on behalf of Tampa Electric Company, has been furnished by hand delivery (*) or U. S. Mail this 9th day of October, 2000 to the following:

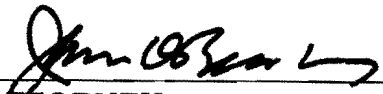
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