

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 PRODUCTION OF DOCUMENTS**

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 Request for Production of Documents (Nos.1-12) ("Document Request") and says:

1. On September 28, 2000, Allied/CFI filed their objections to Tampa Electric's Document Request. They have refused to produce documents that are responsive to request Nos. 1, 2 and 3 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  
12863 OCT-98  
FPSC-RECORDS/REPORTING

2. Document Request Nos. 1, 2 and 3 are as follows:

1. *Provide all documents created by or for Allied/CFI that relate to the topic of competition between Allied/CFI and Odyssey Manufacturing Company ("Odyssey") in Florida, including but not limited to: market analyses, marketing strategies or evaluations of competitors, to the extent that such documents discuss or pertain to Odyssey.*
2. *Provide all documents created by or for Allied/CFI that relate to Allied/CFI's ability to compete in the Florida market for the sale of bleach or bleach products.*
3. *Provide all documents that relate to competitive bids or formal proposals made by Allied/CFI for the sale of bleach to customers in Florida, including, but not limited to: requests for proposals, bids or offers submitted, workpapers detailing development of bids or offers, bidding strategy, timing of submission of bids or offers, acceptance of bids or offers by customers and information with regard to competing bids or bidders.*

3. Tampa Electric is mystified by Allied/CFI's assertion that the subject matter of request Nos. 1, 2 and 3 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 documents requested in request Nos. 1, 2 and 3 are, in fact, irrelevant and, therefore, need not be produced. 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. Although Allied/CFI have voiced objections to the production of documents that are responsive to request Nos. 6, 7, 8 and 12, they have, nonetheless agreed to provide Tampa Electric with all documents that are responsive to those requests. They have raised no objection with regard to request Nos. 4, 5, 9, 10 and 11.

WHEREFORE, Tampa Electric requests an order compelling Allied/CFI to respond to Document Request Nos. 1, 2 and 3 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.

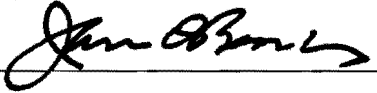
DATED this 9<sup>th</sup> day of October, 2000.

Respectfully Submitted,

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And

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By: 

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

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

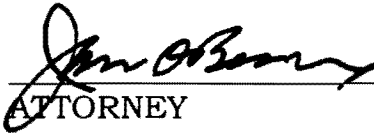
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