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February 15, 2001

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RECORDS AND REPORTING

By Hand Delivery

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, FL 32399-0850

Re: Docket No.000061-EI

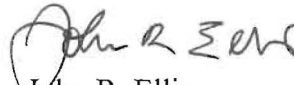
Dear Ms. Bayo:

Enclosed for filing on behalf of Allied/CFI is the original and fifteen copies of: Allied/CFI's Motion for Protective Order Re: Production of Documents.

Please acknowledge these filings by date 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

APP _____
CAF _____
CMP _____ JRE/sy
COM 3 Enclosures
CTR _____ cc: Parties of Record
ECR _____
LEG 1 _____
OPC _____
PAI _____
RGO _____
SEC 1 _____
SER _____
OTH _____

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

02174 FEB 15 01

FPSC-RECORDS/REPORTING

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: February 15, 2001

**ALLIED/CFI'S MOTION FOR PROTECTIVE ORDER
RE: PRODUCTION OF DOCUMENTS**

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 Rules 28-106.206 and 28-106.211, Florida Administrative Code, and Rule 1.280(c), Florida Rules of Civil Procedure, move for a protective order with respect to the documents produced by Allied/CFI to Tampa Electric Company ("TECO") on February 12, 2001, and state:

1. On February 12, 2001, Allied/CFI produced over 4,000 pages of documents to TECO in response to Request No. 3 of TECO's First Request for Production of Documents (Nos. 1-12), concerning the subject of bids in competition with Odyssey Manufacturing Company ("Odyssey") for contracts for the sale of sodium hypochlorite. Production of the documents was made by Allied/CFI pursuant to Order No. PSC-01-0231-PCO-E1, issued January 24, 2001 in this proceeding and modified at the Agenda Conference on February 6, 2001.

2. Out of the thousands of pages of documents assembled and produced by Allied/CFI in the six calendar days allowed, Allied/CFI redacted certain highly confidential cost information

DOCUMENT NUMBER-DATE

02174 FEB 15 2001

FPSO-RECORDS/REPORTING

from 81 pages prior to production to TECO. Attached as Exhibit A to this motion for protective order is an index of the 81 pages. Upon request, copies of the 81 pages will be filed with the Commission pursuant to a Notice of Intent to Request Confidential Classification, in order to permit the Prehearing Officer and the Commission's staff to conduct an *in camera* inspection of the documents.

3. Allied/CFI requests that the Prehearing Officer weigh the limited relevance of the cost information in question against the sensitivity and the confidentiality of that information, and issue an order authorizing the redactions. Allied/CFI notes that throughout this proceeding TECO has been permitted to redact and withhold from disclosure virtually all of its most confidential cost information concerning its incremental cost calculations for service to Odyssey's plant and Allied/CFI's proposed plant, despite the direct relevance of that information to the central issue of this proceeding. Allied/CFI further notes that it has consented without exception to Odyssey's requests to withhold and redact confidential information concerning Odyssey's costs, and that Allied/CFI has never sought discovery of information concerning Odyssey's bids in competition with Allied/CFI for contracts for the sale of sodium hypochlorite. Allied/CFI cannot overlook the deposition testimony given by Mr. Allman on December 4, 2000 in this proceeding, in which he testified that TECO's Mr. Rodriguez called him to discuss Allied/CFI's plans to build a new manufacturing plant; nor can Allied/CFI overlook the potential for inadvertent disclosure of the cost information in question.

4. The asserted relevance of the documents in question is to the issue of whether Allied/CFI has standing to challenge the granting of preferential CISR tariff rates to Odyssey, despite Odyssey's non-compliance with the requirements and preconditions of the CISR tariff and

Order No. PSC-98-1181-20F-E. However, on this issue Odyssey must and does admit the obvious fact that it is selling sodium hypochlorite in competition with Allied/CFI, and that it is not simply stockpiling its product or shipping it for sale in markets in which Allied/CFI does not compete. What else would Odyssey be doing with its product in the Tampa market, besides taking business away from existing suppliers? More specifically, Allied/CFI has produced to TECO (in supplemental response to Request No.)1 a list of customer accounts taken from Allied/CFI (and other Tampa area suppliers) since Odyssey's plant went into operation in April 2001. Any argument that further proof is required in the form of disclosure to TECO of Allied/CFI's most sensitive cost information, could only be made for the purpose of harassment of Allied/CFI. The Prehearing Officer is authorized to balance the limited relevance of Allied/CFI's most sensitive cost information against the potential prejudice to Allied/CFI of inadvertent disclosure of that information, and to order that this matter not be inquired into further and that Allied/CFI's trade secrets in the form of its cost information not be disclosed to TECO.

5. Pursuant to Rule 28-106.211, Florida Administrative Code, the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case.

6. Pursuant to Rule 28-106.206, Florida Administrative Code, parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure.

7. Rule 1.280(c), Florida Rules of Civil Procedure, provides in part as follows:

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown the court in which the action is pending may make any order to protect a party or person from

annoyance, embarrassment, oppression or undue burden or expense that justice requires, including one or more of the following: (1) that the discovery not be had;...(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the court. . . (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way...


8. Prior to the Agenda Conference on February 6, 2001, and in advance of the deposition on February 2 and 3, 2001 of the Allied/CFI witness most knowledgeable concerning Allied/CFI's bids in competition with Odyssey for contracts for the sale of sodium hypochlorite, Mr. James W. Palmer, Allied/CFI produced several hundreds of pages of documents to TECO responsive to TECO's request No. 3. The documents produced were for all bids by Allied/CFI in competition with Odyssey in the four Tampa area counties in which TECO provides electric service.

9. TECO asked not a single question of Mr. Palmer at either day of his deposition concerning the hundreds of pages of bid documents produced by Allied/CFI for that purpose. Instead, TECO only complained bitterly that cost information had been redacted from four of the pages.

10. TECO's conduct with respect to the documents produced in advance of Mr. Palmer's deposition shows that it has no use for any of the hundreds or thousands of pages of documents produced by Allied/CFI in response to Request No. 3 in this proceeding, except as a vehicle for *ad hominem* attacks against the integrity of Allied/CFI's witnesses and counsel. TECO's conduct in this regard is abusive and harassing, and is particularly oppressive in consideration of the limited time available for preparation by Allied/CFI's counsel and witnesses for the Final Hearing on February 19, 2001.

WHEREFORE, Allied/CFI requests that its motion for protective order be granted and that the prehearing officer issue an order authorizing Allied/CFI to refuse to disclose to TECO the information redacted from the documents listed in Exhibit A to Allied/CFI's motion.

Respectfully submitted,



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and Chemical Formulators, Inc.

EXHIBIT A

<u>Page</u>	<u>Date</u>	<u>Stamp No.</u>	<u>Page</u>	<u>Date</u>	<u>Stamp No.</u>
1	12-1-99	001432	23 *		
2	6-5-00	001401	24 *		
3	6-5-00	001402	25*		
4	6-28-99	001342	26	7-31-00	003615
5	7-27-99	001648	27	5-1-00	003575
6	8-21-00	001635	28	8-26-99	003581
7	10-8-00	001589	29	No date	003582
8	8-14-00	002353	30	8-4-97	003543
9	8-15-00	002354	31	No date	003474
10	7-24-98	002244	32 *		
11	7-24-98	002245	33	10-20-00	003443
12	8-4-98	002246	34	9-11-97	003419
13	7-24-00	002184	35	9-15-97	003420
14	7-25-00	002185	36	9-11-00	003392
15	7-26-00	002186	37	9-11-00	003393
16	7-25-00	002187	38	5-15-97	003998
17	8-4-00	002190	39	5-20-97	003999
18	8-9-00	002191	40	2-18-00	003940
19	8-4-00	002193	41	no date	003958
20	8-13-98	002127	42	1-22-99	003959
21	2-24-99	003213	43	1-23-98	003888
22	3-31-97	003233	44	1-26-98	003889

<u>Page</u>	<u>Date</u>	<u>Stamp No.</u>	<u>Page</u>	<u>Date</u>	<u>Stamp No.</u>
45	1-28-98	003890	68	12-7-98	004931
46	1-29-98	003891	69	1-8-98	004936
47 *	7-18-99	004339	70	1-9-98	004937
48	10-23-00	004534	71	1-8-98	004938
49	11-9-00	004535	72	1-8-98	004939
50	10-23-00	004536	73	12-23-97	004942
51	10-26-00	004537	74	1-8	004965
52	no date		75 *		
53	11-11-97	004483	76 *		
54	5-10-99	004460	77 *		
55	5-11-99	004461	78 *		
56	9-5-00	004419	79 *		
57	7-8-00	004420	80	2-15-00	005332
58	9-5-00	004421	81	1-29-99	005261
59	9-8-00	004422	82	no date	005171
59 A	11-24-99	005003	83	11-27-00	005075
60	9-11-00	004423	84	11-27-00	005077
60 A	2-25-00	005004	85	11-28-00	005078
61	9-8-00	004424	86	11-28-00	005079
62	5-30-00	005005	87	12-5-00	005087
63	12-14-00	004974	88	12-1-00	005090
64	12-14-00	004975	89	no date	005091
65	12-14-00	004976			
66	11-22-99	004928			
67	11-23-99	004929			

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Allied/CFI's Motion for Protective Order as to Deposition of Robert M. Namoff was furnished by U. S. Mail, or by hand delivery(*), or telecopier (**), to the following this 15th day of February 2001:

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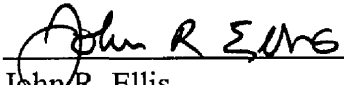
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