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March 9, 2001

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

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RECORDS AND REPORTING

Re: Docket No.000061-EI

Dear Ms. Bayo:

Enclosed for filing on behalf of Allied/CFI are the original and fifteen copies of the following documents:

- (1) Allied/CFI's Response in Opposition to Intervenors' Motion to Strike; 03079-01 and
- (2) Allied/CFI's Response in Opposition to Intervenors' Motion for Summary Final Order. 03080-01

Please acknowledge this filing 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
John R. Ellis

APP _____
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cc: Parties of Record

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DOCUMENT NO. DATE
03079-01 3/9/01
FPSC - COMMISSION CLERK

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: March 9, 2001

**ALLIED/CFI'S RESPONSE IN OPPOSITION TO
INTERVENORS' MOTION TO STRIKE**

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 Rule 28-106.204, Florida Administrative Code, hereby submit their response in opposition to the Motion to Strike filed by Intervenors, Odyssey Manufacturing Company and Sentry Industries, Inc. ("Odyssey"), and state:

1. The first of the three subjects of Odyssey's motion to strike concerns certain allegations of Allied/CFI's Complaint and certain statements in the direct testimony of Robert M. Namoff regarding the employee of Tampa Electric Company ("TECO") who negotiated the CISR tariff rates for Odyssey and became employed by Odyssey, Patrick Allman. Odyssey's motion contends: (1) that the allegations and statements are uncorroborated hearsay which, pursuant to Section 120.57(1)(c), Fla. Stat., is insufficient in and of itself to support a finding of fact; and (2) that Odyssey was not permitted to cross-examine Mr. Namoff at his deposition taken on February 7 and 8, 2001 concerning these allegations and statements.

DOCUMENT NUMBER-DATE
03079 MAR-96
FPSC-RECORDS/REPORTING

2. There are three defects in Odyssey's position: (1) the allegations and statements have been corroborated, in TECO's responses to Allied/CFI's discovery requests and in Mr. Allman's deposition testimony on December 4, 2000; (2) Odyssey did cross-examine Mr. Namoff at length on these allegations and statements, at his deposition on February 8, 2001 (at Volume 2, pages/lines 171:24 to 195:1, 234:2 to 236:9, and 239:1 to 243:14); and (3) the allegations made in Allied/CFI's Complaint filed January 20, 2000 and the statements made in Mr. Namoff's direct testimony filed February 21, 2000, are not being offered in support of any finding of fact on any of the five issues stated in the Prehearing Conference on July 6, 2000 to be submitted to the Commission for decision in the preceding, as noted in Mr. Namoff's rebuttal testimony (at page 3, lines 15 to 22) and in his deposition testimony.

3. The second subject of Odyssey's motion to strike concerns certain allegations of Allied/CFI's Complaint and of Mr. Namoff's direct testimony regarding the fact that the new technology for manufacturing sodium hypochlorite reduces the potential environmental hazards involved in the handling of bulk chlorine and caustic soda. Apparently, Odyssey's position is that because Mr. Namoff is not personally knowledgeable concerning the particulars of the extent to which the new technology would reduce the potential environmental hazards, his opinion that the potential hazards would be reduced at all should be stricken. Odyssey's argument is frivolous because any such challenge to the basis for Mr. Namoff's opinion goes to the weight to be given to the opinion, and not to its admissibility.

4. The third subject of Odyssey's motion to strike is its contention that the brief rebuttal testimony of Peter De Angelis and essentially all of the rebuttal testimony of Mr. Namoff do no rebut any direct testimony in this proceeding. Odyssey's contention concerning Mr. De Angelis's

testimony is contradicted by the following statement in the direct testimony of its President and Chief Executive Officer, Stephen W. Sidelko (at page 3) :


Second, we were able to negotiate with TECO a good deal, but not a great one. In fact, in our planning of the project our anticipated electric energy rate was at times more favorable than we actually obtained.

Mr. De Angelis's testimony directly rebuts Mr. Sidelko's testimony concerning the rates considered in the planning of the project. Odyssey's one-sentence shotgun contention concerning Mr. Namoff's testimony is completely unsupported by any references to specific issues and statements in his testimony in comparison to the rebuttal testimony of the four TECO witnesses and the two Odyssey witnesses, and Allied/CFI is not obliged to respond further. Additionally, Odyssey's position overlooks the fact that Allied/CFI was required to file its direct testimony 30 days after filing its Complaint, and before it was permitted to conduct discovery in this proceeding, and therefore that Allied/CFI had no other opportunity to file testimony concerning facts disclosed in discovery in this proceeding.

5. Odyssey's motion is moot as a result of the settlement entered into between TECO and Allied/CFI, as stated in Allied/CFI's Response in Opposition to Intervenors' Motion for Summary Final Order and incorporated herein by this reference.

WHEREFORE, Allied/CFI requests that Odyssey's motion to strike be denied.

Respectfully submitted,



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and Chemical Formulators, Inc.

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Allied/CFI's Response in Opposition to Intervenor's Motion to Strike was furnished by U. S. Mail, or by hand delivery (*), or telecopier (**), to the following this 9th day of March 2001:

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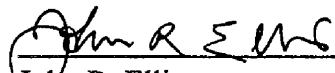
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