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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by 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

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INTERVENORS' MOTION FOR LEAVE TO PRESENT PREFILED TESTIMONY OF PAMELA WINTERS TELEPHONICALLY AND MOTION TO ALLOW TELEPHONIC PARTICIPATION OF COUNSEL

ODYSSEY MANUFACTURING COMPANY and SENTRY INDUSTRIES, INC. (collectively referred to as "Intervenors"), by and through undersigned counsel, hereby file this Intervenors' Motion for Leave to Present Prefiled Testimony of Pamela Winters Telephonically and Motion to Allow Telephonic Participation of Counsel, and in support thereof would state and allege as follows:

1. Rule 28-106.213, Florida Administrative Code, specifically provides that if requested and if the necessary equipment is reasonably available, testimony may be taken by means of video teleconference or by telephone at a formal administrative proceeding. In this case, the Commission's

facilities can accommodate the taking of such testimony by telephone, and good cause exists for such testimony to be taken telephonically.

2. Pamela Winters is a witness for Intervenors, and a resident of the State of Michigan.

Intervenors arranged for Ms. Winters to be in Tallahassee, Florida when the hearing was first

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convened on February 19, 2001. Additionally, Scott Strattard, Esquire, counsel for Citizens Bank, Ms. Winters' employer, was also in attendance at the February 19, 2001 hearing in Tallahassee in order to protect, and assert the need for protection for, any confidential information of Citizens Bank which might be at issue during Ms. Winters' examination and cross-examination. In fact, no testimony was taken on that date as the parties recessed to engage in discussion which might avoid the need for a formal administrative hearing.

The end product of those settlement discussions will be before the Commission at its regularly scheduled April 3, 2001 Agenda Conference. In the event that this matter should proceed to hearing, that hearing will be held immediately thereafter on April 4 and 5, 2001.

3. The expense of arranging for Ms. Winters to come to Tallahassee on a contingent basis on April 4 and 5, 2001, particularly in light of the fact that the Staff has recommended that this matter should be settled by final order as a result of the April 3, 2001 Agenda Conference, is an expense that Intervenors should not be forced to incur. In the event that Ms. Winters' testimony is needed, the other parties to this proceeding are aware of her prefiled testimony and have engaged in a lengthy deposition of Ms. Winters, taken on two separate dates. In fact, it is noteworthy that the deposition of Ms. Winters was conducted by telephone by the Complainants. The parties will not be prejudiced by the presentation of that evidence and the cross-examination of that witness by telephone. Likewise, the Intervenors should not have to bear the expense of securing Mr. Strattard, or substitute counsel, attendance in Tallahassee.

4. It would promote judicial economy and not prejudice any party, the Commission Panel, nor the Commission Staff to allow the telephone presentation of this testimony. The Uniform Rules specifically provide for the presentation of such telephonic testimony, the Commission has

the facilities in place to handle such telephonic testimony, and the unique facts and circumstances of the location of the witness and the status of this proceeding support the use of telephonic testimony for this witness in this case and the telephonic appearance of counsel for the witness and her employer.

WHEREFORE, and in consideration of the above, Intervenor respectfully request that the Commission find that the testimony of Ms. Pamela Winters may be presented by telephone, should this matter proceed to hearing on April 4 and 5, 2001. Intervenor additionally respectfully request that the Commission allow the participation of bank counsel, on behalf of Ms. Winters, by telephone. Intervenor request that Ms. Winters' testimony, and the necessary participation of bank counsel as contemplated herein, should occur at a time to be determined with specificity at the onset of the April 4, 2001 hearing day, if in fact this matter does proceed to hearing. This predetermination will allow Ms. Winters, and bank counsel, to be available as scheduled in order to expedite the hearing on this matter.

Dated this 29th day of March, 2001.

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and SENTRY INDUSTRIES, INC.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Intervenor's Motion for Leave to Present Prefiled Testimony of Pamela Winters has been furnished by Facsimile and U.S. Mail to the following on this 29th day of March, 2001:

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