



Public Service Commission

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COMMISSION CLERK

DATE: DECEMBER 5, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (STERN) MKS
DIVISION OF ECONOMIC REGULATION (E. DRAPER) EJD RMT

RE: DOCKET NO. 000061-EI - 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, F.S., WITH RESPECT TO RATES OFFERED UNDER COMMERCIAL/INDUSTRIAL SERVICE RIDER TARIFF; PETITION TO EXAMINE AND INSPECT CONFIDENTIAL INFORMATION; AND REQUEST FOR EXPEDITED RELIEF.

AGENDA: 12/17/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\000061r9.rcm

CASE BACKGROUND

On January 20, 2000, Allied Universal Corporation and Chemical Formulators, Inc. (Allied) filed a formal complaint against Tampa Electric Company (TECO). The complaint alleges that: 1) TECO violated Sections 366.03, 366.06(2), and 366.07, Florida Statutes, by offering discriminatory rates under its Commercial/Industrial Service Rider (CISR) tariff; and, 2) TECO breached its obligation of good faith under Order No. PSC-98-1081A-FOF-EI. Odyssey Manufacturing Company (Odyssey) and Sentry Industries (Sentry) are intervenors. They are separate companies but have the same president. Allied, Odyssey and Sentry manufacture bleach. The Commission approved a settlement agreement in this docket on April 3, 2001.

DOCUMENT NUMBER-DATE

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This recommendation addresses: 1) whether TECO should stop filing quarterly CISR reports; and, 2) whether the docket should be closed.

The Commission has jurisdiction pursuant to Sections 366.03, 366.06 and 366.07, Florida Statutes.

ISSUE 1: Should TECO be required to continue filing quarterly Commercial/Industrial Service Rider (CISR) reports?

RECOMMENDATION: No. TECO should not be required to continue filing quarterly CISR reports. TECO, however, should be required to notify the Commission when it executes a new CSA and provide a description of the CSA, including the rates, terms and conditions, and the justification for the offering. TECO should provide this information within 30 days after executing the CSA. [E. DRAPER]

STAFF ANALYSIS: When the Commission approved TECO's petition for a CISR tariff, the Commission required TECO to file two types of reports: 1) quarterly monitoring reports; and, 2) a confidential supplement to the monthly surveillance report that reports the difference between the revenues that would have been produced by TECO's otherwise applicable tariff and the revenues that are produced under the CISR (revenue shortfall). See Order No. PSC-98-1081-FOF-EI, issued August 10, 1998.

The quarterly reports provide information such as the number of CSAs requested, number of CSA prices quoted, number of CSA offers accepted/rejected, number of CSA offers awaiting decision by customers, a brief description of CSAs executed during the quarter, and the cumulative total revenues associated with all executed CSAs.

On April 3, 2001, the Commission approved a settlement agreement between Allied and TECO. The Commission further concluded that Allied's and Odyssey's CSAs are prudent and provide benefits to the general body of ratepayers. In light of the Commission's finding that both CSAs are prudent, TECO is no longer required to report the revenue shortfall of the two CSAs on its

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monthly surveillance reports. TECO is still required to provide the revenue shortfall associated with any subsequently executed CSAs until such time as they have been subject to a prudence review by the Commission. See Order No. PSC-01-1003-AS-EI, Order Approving Settlement Agreement.

Staff believes that based on the Commission's finding of prudence with respect to TECO's two executed CSAs and the fact that TECO is no longer required to report the revenue shortfall of its two CSAs, it is also no longer necessary for TECO to provide quarterly reports. In addition, staff believes that the quarterly reports only provide meaningful information when TECO executes a CSA. To that end, TECO should be required to notify the Commission when it executes a new CSA and provide a description of the CSA, including the rates, terms and conditions, and the justification for the offering. TECO should provide this information within 30 days after executing the CSA.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed.

STAFF ANALYSIS: At the April 3, 2001, Agenda Conference the Commission disposed of the Complaint by approving a Settlement Agreement. For two reasons the docket could not be closed upon the issuance of an order approving the agreement.

First, the Agreement included a provision for creating an evidentiary record consisting of all prefiled testimony, all deposition transcripts and all of TECO's discovery responses. After the settlement, many of the documents in the record had to be reviewed for confidentiality, and the parties filed numerous confidentiality requests. The requests had to be addressed before the docket could be closed.

Second, before the Agreement was approved, Odyssey had filed a Motion to Strike some of the testimony which was ordered to be

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moved into the evidentiary record. The docket had to stay open until the Motion was disposed of.

Odyssey withdrew its Motion on April 20, 2001, and all the confidentiality requests have been addressed. Nothing remains to be addressed in this docket and it should be closed.